

<b>Tab 1</b>	<b>SB 508 by Rouson;</b> (Compare to CS/H 00693) Public Assistance					
<b>Tab 2</b>	<b>SB 1214 by Book;</b> (Similar to CS/H 07017) Child Exploitation					
283158	A	S	RCS	CF, Book	Delete L.1152 - 1156.	01/30 03:24 PM
666614	A	S	RCS	CF, Book	Delete L.1165 - 1167:	01/30 03:24 PM
659158	A	S	RCS	CF, Book	btw L.5805 - 5806:	01/30 03:24 PM
<b>Tab 3</b>	<b>SB 1442 by Book;</b> (Similar to CS/H 01351) Early Childhood Court Program					
776396	D	S	RCS	CF, Book	Delete everything after	01/29 06:02 PM
<b>Tab 4</b>	<b>SB 1520 by Hutson;</b> (Similar to H 01129) Licensure of Child Care Programs					
408868	A	S		CF, Hutson	Delete L.32 - 92:	01/26 04:16 PM
<b>Tab 5</b>	<b>SB 1650 by Montford (CO-INTRODUCERS) Book;</b> Child Abuse, Abandonment, and Neglect					
868338	D	S	RCS	CF, Montford	Delete everything after	01/29 06:02 PM
<b>Tab 6</b>	<b>SB 1788 by Passidomo;</b> (Similar to H 01373) Agency for Persons With Disabilities					
352810	D	S	L RCS	CF, Passidomo	Delete everything after	01/29 06:03 PM
<b>Tab 7</b>	<b>SB 1790 by Powell;</b> (Similar to H 01377) Baker Act					
<del>747094</del>	<del>A</del>	S	WD	CF, Powell	Delete L.145 - 146:	01/29 06:05 PM
<del>495488</del>	<del>A</del>	S	WD	CF, Powell	Delete L.179 - 180:	01/29 06:05 PM
<del>851346</del>	<del>A</del>	S	L WD	CF, Powell	Delete L.145 - 147:	01/29 06:05 PM
<del>225424</del>	<del>A</del>	S	L WD	CF, Powell	Delete L.179 - 181:	01/29 06:05 PM
519510	A	S	L RCS	CF, Torres	Delete L.108 - 181.	01/29 06:05 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**

**Senator Garcia, Chair**  
**Senator Torres, Vice Chair**

**MEETING DATE:** Monday, January 29, 2018

**TIME:** 4:00—6:00 p.m.

**PLACE:** *James E. "Jim" King, Jr. Committee Room*, 401 Senate Office Building

**MEMBERS:** Senator Garcia, Chair; Senator Torres, Vice Chair; Senators Broxson, Campbell, and Steube

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 508</b> Rouson (Compare CS/H 693, CS/H 751, S 1160)	Public Assistance; Requiring CareerSource Florida, Inc., to submit in a detailed annual report certain information on individuals subject to mandatory work requirements who receive temporary cash or food assistance; requiring the Department of Economic Opportunity to work with program participants in developing strategies to overcome obstacles to compliance with work activity requirements; creating the TANF Reemployment Pilot Program in Pinellas County, etc.  CF 01/29/2018 Favorable CM AHS AP	Favorable Yeas 4 Nays 0
2	<b>SB 1214</b> Book (Similar CS/H 7017, Compare H 7019, Linked CS/S 1216)	Child Exploitation; Revising the types of offenses committed by a child in certain custody or supervision of the Department of Children and Families which require the department to provide notice to the school superintendent; revising the offenses for which a criminal defendant may seek an order of disclosure for certain confidential and exempt court records, for which the state may use a pseudonym instead of the victim's name, and for which a publication or broadcast of trial testimony may not include certain victim identifying information; revising the offenses for which the licenses of massage therapists and massage establishments must be suspended, etc.  CF 01/29/2018 Fav/CS CJ AP RC	Fav/CS Yeas 4 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Monday, January 29, 2018, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>SB 1442</b> Book (Similar CS/H 1351)	Early Childhood Court Program; Requiring the Office of the State Courts Administrator, by a specified date, to verify the existence of an Early Childhood Court program at certain circuit courts; requiring the Florida State University Center for Prevention and Early Intervention Policy to hire a statewide clinical consultant and assemble a clinical oversight team for specified purposes; requiring the Florida Institute for Child Welfare to conduct an evaluation of the program's impact in consultation with the Department of Children and Families, the office, the center, and a specified organization, etc.  CF 01/29/2018 Fav/CS ACJ AP	Fav/CS Yeas 4 Nays 0
4	<b>SB 1520</b> Hutson (Similar H 1129)	Licensure of Child Care Programs; Requiring certain organizations offering child care through after-school programs to be licensed as child care facilities, etc.  CF 01/29/2018 Temporarily Postponed AHS AP	Temporarily Postponed
5	<b>SB 1650</b> Montford	Child Abuse, Abandonment, and Neglect; Prohibiting the Department of Children and Families from releasing the names of certain persons who have provided information during a protective investigation except under certain circumstances, etc.  CF 01/29/2018 Fav/CS GO RC	Fav/CS Yeas 4 Nays 0
6	<b>SB 1788</b> Passidomo (Similar H 1373)	Agency for Persons With Disabilities; Prohibiting the agency from issuing a license to a new comprehensive transitional education program after a specified date; prohibiting the agency from renewing the license of an existing comprehensive transitional education program after a specified date; revising competency assessment and validation requirements for direct service providers who administer or supervise the self-administration of medication, etc.  CF 01/29/2018 Fav/CS AHS AP	Fav/CS Yeas 4 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Monday, January 29, 2018, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1790</b> Powell (Similar H 1377, Compare H 1379, Linked S 1846)	Baker Act; Requiring the Department of Children and Families to create a workgroup to provide recommendations relating to revision of the Baker Act; requiring the administrator of a receiving facility to file a petition for voluntary placement within a specified timeframe after a person under age 18 is admitted for services or transferred to voluntary status; requiring the administrator of a children's crisis stabilization unit or a juvenile addictions receiving facility to file a petition for voluntary placement within a specified timeframe after a person under age 18 is admitted for services, etc.  CF 01/29/2018 Fav/CS AHS AP	Fav/CS Yeas 4 Nays 0
8	Update on Child Support Enforcement by Department of Revenue, Executive Director Leon Biegalski		Discussed
9	Review of Child Support Guidelines by: · Alex Regalado, Office of Program Policy Analysis and Government Accountability (OPPAGA) · Dr. Tom McCaleb, Florida State University		Discussed
Other Related Meeting Documents			



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 508

INTRODUCER: Senator Rouson

SUBJECT: Public Assistance

DATE: January 26, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	<b>Favorable</b>
2.			CM	
3.			AHS	
4.			AP	

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**I. Summary:**

SB 580 makes changes to the state's temporary cash assistance (TCA) program to improve recipients' compliance with work requirements. The bill requires agencies administering the program to develop a work plan agreement with each recipient to ensure the program's work activity requirements are understood. The bill requires CareerSource Florida, Inc., to include additional information in its annual report on employment outcomes for TCA recipients. The bill also directs the Office of Program Policy Analysis and Government Accountability to conduct a study of workforce development efforts for recipients of public assistance.

The bill creates a pilot program in Pinellas County to assist Temporary Assistance for Needy Families (TANF) recipients in finding and securing stable employment. The bill appropriates \$300,000 in nonrecurring funds to the pilot program in Fiscal Year 2018-2019.

The bill imposes a fee for the replacement of electronic benefit cards under certain circumstances. These changes would create a fiscal impact on DCF and the bill has an effective date of July 1, 2018.

**II. Present Situation:**

**Temporary Assistance for Needy Families**

The federal TANF program was created in the 1996 welfare reform law, as part of the Personal Responsibility and Work Opportunity Reconciliation Act.<sup>1</sup> The TANF program operates as a block grant, which provides federal funding to states for a wide range of benefits and activities to

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<sup>1</sup> Pub. L. No. 104-193.

help support indigent families. TANF is a form of public assistance, best known for providing cash assistance to families with children living in poverty. The purpose of TANF is to:

- Provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- End the dependency of needy parents on government benefits through work, job preparation, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies; and
- Encourage the formation and maintenance of two-parent families.<sup>2</sup>

### **Florida's Temporary Cash Assistance Program**

The Department of Children and Families (DCF) is the state agency responsible for the administration of federal social service funds, including the block grant under the TANF program. The DCF is the recipient of the TANF block grant and administers the funds through the state's TCA program.<sup>3</sup> The TCA program is a form of public assistance<sup>4</sup> that provides cash assistance benefits to families with children that meet certain technical, income, and asset requirements.<sup>5</sup>

#### ***Eligibility***

To be eligible for TCA, the DCF must determine that a family meets both financial and non-financial requirements established in state law.<sup>6</sup> In general, families must include a child living in the home (or a pregnant woman) and be residents of Florida.<sup>7</sup> Children under age 5 must be up to date with childhood immunizations and children age 6 to 18 must attend school and parents or caretakers must participate in school conferences. TCA recipients must have a gross family income equal to, or less than, 185 percent of the federal poverty level<sup>8</sup> and the family may not have more than \$2,000 of liquid and non-liquid resources, excluding licensed vehicles needed for individuals subject to the work requirement that do not exceed a combined value of \$8,500.<sup>9</sup> Florida law specifies two major categories of families who may be eligible for TCA, those families that are work-eligible, and those child-only cases.<sup>10</sup> While many of the basic eligibility requirements apply to these categories, there are some distinctions between the categories in terms of requirements and restrictions.

#### Child-Only Cases

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<sup>2</sup> U.S. Department of Health and Human Services, see <http://www.acf.hhs.gov/programs/ofa/programs/tanf/about> (last visited January 24, 2018).

<sup>3</sup> Department of Children and Families, *Temporary Assistance for Needy Families: An Overview of Program Requirements* (Jan. 2016), available at <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited January 24, 2018).

<sup>4</sup> "Public assistance" means benefits paid on the basis of the temporary cash assistance, food assistance, Medicaid, or optional state supplementation program. Section 414.0252(10), F.S.

<sup>5</sup> See s. 414.045, F.S.

<sup>6</sup> Section 414.095, F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 414.085, F.S.

<sup>9</sup> Section 414.075, F.S.

<sup>10</sup> Section 414.045(1), F.S.

There are two types of child-only cases. The first is where the child has not been adjudicated dependent, but is living with a relative or still resides with a custodial parent who is not eligible to receive TCA.<sup>11</sup> These child-only cases also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to their immigration status.<sup>12</sup> In the majority of situations, the child is living with a grandparent or other relative.<sup>13</sup> Grandparents or other relatives receiving child-only payments are not subject to the TCA work requirements or time limits.

The second type of child-only case refers to families in the Relative Caregiver Program, as provided in s. 39.5085, F.S.<sup>14</sup> In these cases, the child has been adjudicated dependent due to the original parents' inability to care for the child and the court has placed the child with a relative or nonrelative caregiver.<sup>15</sup> These caregivers are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving Relative Caregiver payments are not subject to the TCA work requirements or time limits.

### Work-Eligible Cases

Work-eligible cases are those in which an adult, or teen head of household, is generally subject to the TCA work activity requirements and time limits in addition to the eligibility requirements.<sup>16</sup> Within the work-eligible cases, there are single parent families and two-parent families. Single parent families can receive cash assistance for the parent and the children. Two-parent families are eligible on the same basis as single-parent families, except the work requirement for two-parent families requires a higher number of work participation hours per week.<sup>17</sup>

### ***Work Requirements***

Adults in work-eligible cases must work or participate in work-related activities for a specified number of hours per week, depending on the number of work-eligible adults in the family and the age of the children.<sup>18</sup> The following work activities, based on federal law,<sup>19</sup> may be used individually or in combination, to satisfy the TCA work requirements:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- On-the-job training;
- Community service programs;
- Work experience;

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<sup>11</sup> See s. 445.045(1)(b), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Department of Children and Families, *supra* note 3.

<sup>14</sup> See s. 445.045(1)(b), F.S.

<sup>15</sup> Section 39.5085(2)(a), F.S.

<sup>16</sup> Section 414.045, F.S.

<sup>17</sup> Department of Children and Families, *supra* note 3.

<sup>18</sup> See ss. 414.095 and 445.024, F.S.

<sup>19</sup> Federal law includes “core activities” that may be used to satisfy any of the weekly participation requirements and “supplemental” activities that must be combined with a “core” activity to satisfy the work activity requirement.

- Job search and job readiness assistance;
- Vocational educational training;
- Job skills training directly related to employment;
- Education directly related to employment;
- Satisfactory attendance at a secondary school or a course of study leading to a high school equivalency diploma; and
- Providing child care services.<sup>20</sup>

The following chart represents the number of hours work-eligible TCA recipients are required to participate in work or work-related activities:

Type of Family	Work Participation Hours Required
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities <sup>21</sup>

### ***Time Limits***

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance.<sup>22</sup> States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of TCA benefits to not more than 48 cumulative months of assistance, unless a participant qualifies for a hardship exemption to the time limit.<sup>23</sup> Hardship exemptions are determined by the DCF in cooperation with CareerSource Florida, Inc. (CareerSource Florida).

Individuals determined to qualify for a hardship exemption may fall within a range of hardship criteria listed under s. 414.405, F.S., and may receive TCA for a duration of time longer than the 48 cumulative months. Extra time may be considered for individuals with significant barriers to employment, individuals with diligent participation and an inability to become employed, or individuals caring for a disabled family member.<sup>24</sup>

<sup>20</sup> Section 445.024(1), F.S.

<sup>21</sup> Department of Children and Families, *supra* note 3.

<sup>22</sup> Department of Children and Families, *Temporary Assistance for Needy Families: An Overview of Program Requirements* (Jan. 2016), available at <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited January 24, 2018).

<sup>23</sup> Section 414.105, F.S.

<sup>24</sup> *Id.*

### ***Payment of Temporary Cash Assistance***

The DCF provides TCA to eligible families by means of electronic benefits transfer (EBT).<sup>25</sup> Each eligible family is given an account under the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) where monthly TCA benefits are deposited. First-time participants are mailed an EBT card and a brochure containing instructions for using the card. If an EBT card is lost or expired, the participant is required to contact EBT Customer Service and request a replacement card.<sup>26</sup>

The amount of TCA received by a family depends on the family size and whether the family must pay for housing. Florida law establishes a standard for TCA amounts based on whether a family has no obligation to pay for shelter, has a shelter obligation less than or equal to \$50, or has a shelter obligation greater than \$50.<sup>27</sup> The following maximum monthly amounts are specified in s. 414.095(10), F.S.:

<b>Family Size</b>	<b>No Obligation To Pay for Shelter</b>	<b>Shelter Costs Less than \$50</b>	<b>Shelter Costs Greater than \$50<sup>28</sup></b>
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426 <sup>29</sup>

### **Relative Caregiver Program**

Under current law, after a child has been adjudicated dependent and placed with a caregiver, both relative and nonrelative caregivers may be eligible to receive TCA benefits under the Relative Caregiver Program.<sup>30</sup> Generally, these caregivers are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. Only the child's countable income and age are used to determine TCA eligibility and benefit amounts.<sup>31</sup>

The maximum monthly payments for children with no countable income are based on the age of the child as follows:

- Age 0 through 5 - \$242 per child;
- Age 6 through 12 - \$249 per child; and
- Age 13 through 17 - \$298 per child.

<sup>25</sup> Section 402.82, F.S.

<sup>26</sup> Department of Children and Families, *EBT Card Issuance*, available at <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/ebt-card-issuance> (last visited January 24, 2018).

<sup>27</sup> Section 414.095(10), F.S.

<sup>28</sup> A homeless family qualifies for the same level of assistance as a family with a shelter obligation great than \$50. *Id.*

<sup>29</sup> Florida law calculates the amounts for each assistance level for family sizes up to 10 persons. *See* s. 414.095(10), F.S.

<sup>30</sup> Section 39.5085, F.S.

<sup>31</sup> Rule 65C-28.008(2)(g), F.A.C.

## Florida's Workforce Development System

The Department of Economic Opportunity (DEO), CareerSource Florida, and 24 local workforce development boards (LWDBs) act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

The DEO serves as Florida's lead workforce agency<sup>32</sup> and is responsible for the fiscal and administrative affairs of the workforce development system.<sup>33</sup> The DEO is also responsible for financial and performance reports, which are provided to the U.S. Department of Labor and other federal organizations.<sup>34</sup> The DEO provides one-stop program support to the LWDBs through guidance, training, and technical assistance.<sup>35</sup>

CareerSource Florida is a not-for-profit corporation that assists the DEO with state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services.<sup>36</sup> CareerSource Florida is responsible for developing and implementing a 5-year state plan for the delivery of workforce services and is required to provide an annual report containing information regarding its operations, accomplishments, and audits.<sup>37</sup>

The DEO and CareerSource Florida deliver Florida's workforce development services through the LWDBs and nearly 100 one-stop career centers.<sup>38</sup> One-stop career service centers provide Floridians local access to available workforce services, including job placement, career counseling, and skills training.<sup>39</sup>

## Workforce Development System and TCA Work Requirements

The DCF collaborates with CareerSource Florida to assist TCA recipients in complying with the work requirements under the TCA program.<sup>40</sup> The local workforce development boards assist TCA participants by providing employment training, assisting in securing employment, and determining whether an applicant family has significant barriers to employment that may be corrected. The local workforce development boards also document the TCA recipient's work activity and report such information to DCF.<sup>41</sup> If a TCA participant does not meet his or her work requirements, the DCF may sanction the participant by reducing or eliminating cash assistance.<sup>42</sup>

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<sup>32</sup> Primarily through its Division of Workforce Services. *See* s. 20.60, F.S.

<sup>33</sup> Section 445.009(3)(c), F.S.

<sup>34</sup> *See* s. 20.60, F.S.

<sup>35</sup> Section 20.60(4)(c), F.S.

<sup>36</sup> *See* s. 445.004, F.S.

<sup>37</sup> The report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by December 1 each year. *See* s. 445.004, F.S.

<sup>38</sup> Florida Department of Economic Opportunity, *CareerSource Florida Center Directory*, <http://www.floridajobs.org/onestop/onestopdir/> (last visited January 24, 2018).

<sup>39</sup> *See* s. 445.009, F.S.

<sup>40</sup> Section 445.024, F.S.

<sup>41</sup> *See* ss. 445.007, 445.017, and 445.018, F.S.

<sup>42</sup> Section 414.065, F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s 39.5085, F.S., relating to the Relative Caregiver Program where relatives and non-relatives temporarily care for abused and neglected children. The bill updates and rewords existing law but makes no substantive changes.

**Section 2** amends s. 402.82, F.S., relating to the payment of cash assistance through EBT cards. The bill requires the DCF to impose a fee prior to replacing an EBT card if a participant requests a replacement card for the fifth time within a 12-month period. Any subsequent requests for EBT card replacement are also subject to the fee. The bill provides the EBT card replacement fee must be equal to the cost of replacing the EBT card, and the bill allows the fee to be deducted from the participant's future benefits. The bill allows the DCF to waive the replacement fee upon a showing of good cause, such as a card malfunction or extreme financial hardship.

**Section 3** amends s. 445.004, F.S., to require CareerSource Florida to include additional information in its annual report. The bill requires the annual report to include information regarding participant statistics and employment outcomes, by program, for individuals subject to mandatory work requirements due to TCA or food assistance benefits provided under ch. 414, F.S.

For each local workforce development board, the annual report must include the number of individuals served, services received, activities in which individuals participated, and the types of employment secured. For individuals securing employment, the annual report must also include how many individuals remained in an assistance program and how many exited a program due to employment. The bill also requires CareerSource Florida, Inc., to include in the annual report the participant's employment status at 3 months, 6 months, and 12 months after exiting the program, for the past 3 years.

**Section 4** amends s. 445.024, F.S., relating to work requirements for TCA participants. The bill requires the Department of Economic Opportunity, CareerSource Florida, and the DCF to develop a work plan agreement that requires a TCA participant to assent in writing that he or she has been informed in plain language what is expected of the participant, under what circumstances the participant could be sanctioned for noncompliance, and what potential penalties could be imposed for noncompliance with work requirements. Under the work plan agreement, the agencies must work with the participant to develop strategies to overcome obstacles limiting the participants' ability to comply with the work requirements.

**Section 5** directs the Legislature's Office of Program Policy Analysis and Government Accountability to conduct a study of local workforce development boards to determine what barriers prevent participants from complying with mandatory work requirements under the Supplemental Nutrition Assistance Program and the TANF program. The study must include data on the reasons applicants provide for being noncompliant, the assistance offered to participants, and the number of sanctions applied. The bill requires OPPAGA to submit a report with its findings and recommendations to the Governor and the Legislature by November 1, 2017.

**Section 6** creates the TANF Reemployment Pilot Program in Pinellas County to assist TANF recipients in finding and securing stable and productive employment. The Pinellas Opportunity Council, Inc., is tasked with administering the pilot program and assisting recipients in developing return-to-work plans to achieve reemployment.

**Section 7** appropriates funds to the TANF Reemployment Pilot Program. For Fiscal Year 2018-2019, the bill appropriates \$150,000 in nonrecurring general revenue and \$150,000 in nonrecurring trusts funds the pilot program.

**Section 8** provides an effective date of July 1, 2018.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill imposes a fee on TCA participants when their EBT card is replaced five or more times in one year. The cost of the replacement card will be deducted from the participant's future cash assistance benefits.

B. Private Sector Impact:

Participants in the TCA program who lose or have their EBT cards stolen five or more times in one year will have to pay for the replacement card.

C. Government Sector Impact:

For Fiscal Year 2018-2019, the bill appropriates \$150,000 in nonrecurring funds from the General Revenue Fund and \$150,000 in nonrecurring funds from the Federal Grants Trust Fund for the TANF Reemployment Pilot Program.

The DCF estimates that costs associated with system programming to implement changes to the EBT fee could cost as much as \$500,000.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.5085, 402.82, 445.004, and 445.024.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Rouson

19-00402-18

2018508\_\_

1 A bill to be entitled  
 2 An act relating to public assistance; amending s.  
 3 39.5085, F.S.; clarifying requirements related to the  
 4 Relative Caregiver Program; amending s. 402.82, F.S.;  
 5 requiring the Department of Children and Families to  
 6 impose a replacement fee for electronic benefits  
 7 transfer cards under certain circumstances; amending  
 8 s. 445.004, F.S.; requiring CareerSource Florida,  
 9 Inc., to submit in a detailed annual report certain  
 10 information on individuals subject to mandatory work  
 11 requirements who receive temporary cash or food  
 12 assistance; amending s. 445.024, F.S.; requiring the  
 13 Department of Economic Opportunity, in cooperation  
 14 with CareerSource Florida, Inc., and the Department of  
 15 Children and Families, to develop a work plan  
 16 agreement for each individual participant in the  
 17 temporary cash assistance program; requiring the plan  
 18 to identify expectations, sanctions, and penalties for  
 19 noncompliance with work requirements; requiring the  
 20 Department of Economic Opportunity to work with  
 21 program participants in developing strategies to  
 22 overcome obstacles to compliance with work activity  
 23 requirements; requiring the Office of Program Policy  
 24 Analysis and Government Accountability (OPPAGA) to  
 25 conduct a study; providing study requirements;  
 26 providing legislative intent; requiring OPPAGA to  
 27 submit a report by a certain date to the Governor and  
 28 the Legislature; providing legislative findings;  
 29 creating the TANF Reemployment Pilot Program in

Page 1 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

19-00402-18

2018508\_\_

30 Pinellas County; providing the administration of the  
 31 program; providing the purpose of the program;  
 32 providing an appropriation; providing an effective  
 33 date.

34  
 35 Be It Enacted by the Legislature of the State of Florida:

36  
 37 Section 1. Paragraph (a) of subsection (1) and paragraph  
 38 (a) of subsection (2) of section 39.5085, Florida Statutes, are  
 39 amended to read:

40 39.5085 Relative Caregiver Program.—

41 (1) It is the intent of the Legislature in enacting this  
 42 section to:

43 (a) Provide for the establishment of procedures and  
 44 protocols that serve to advance the continued safety of children  
 45 by acknowledging the valued resource uniquely available through  
 46 grandparents, relatives of children, and specified nonrelatives  
 47 of children pursuant to sub-subparagraph (2)(a)1.c. ~~subparagraph~~  
 48 ~~(2)(a)3.~~

49 (2)(a) The Department of Children and Families shall  
 50 establish, operate, and implement the Relative Caregiver Program  
 51 by rule of the department.

52 1. The Relative Caregiver Program shall, within the limits  
 53 of available funding, provide financial assistance to:

54 a.1. ~~1.~~ Relatives who are within the fifth degree by blood or  
 55 marriage to the parent or stepparent of a child and who are  
 56 caring full-time for that dependent child in the role of  
 57 substitute parent as a result of a court's determination of  
 58 child abuse, neglect, or abandonment and subsequent placement

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with the relative under this chapter.

~~b.2-~~ Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

~~c.3-~~ Nonrelatives who are willing to assume custody and care of a dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

~~2.4-~~ A ~~relative or nonrelative caregiver, but the~~ relative or nonrelative caregiver may not receive a Relative Caregiver Program payment if the parent or stepparent of the child resides in the home. However, a relative or nonrelative may receive the Relative Caregiver Program payment for a minor parent who is in his or her care ~~and, as well as~~ for the minor parent's child, if both ~~the minor parent and the child~~ children have been adjudicated dependent and meet all other eligibility requirements. If the caregiver is currently receiving the payment, the Relative Caregiver Program payment must be terminated no later than the first of the following month after the parent or stepparent moves into the home. Before the Relative Caregiver Program payment is terminated, the caregiver must be given at least a, allowing for 10-day notice of adverse

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action.

The placement may be court-ordered temporary legal custody to the relative or nonrelative under protective supervision of the department pursuant to s. 39.521(1)(c)3., or court-ordered placement in the home of a relative or nonrelative as a permanency option under s. 39.6221 or s. 39.6231 or under former s. 39.622 if the placement was made before July 1, 2006. The Relative Caregiver Program shall offer financial assistance to caregivers who would be unable to serve in that capacity without the caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

Section 2. Present subsection (4) of section 402.82, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section, to read:

402.82 Electronic benefits transfer program.—

(4) The department shall impose a fee for the fifth and each subsequent request for a replacement electronic benefits transfer card made by a participant within a 12-month period. The fee must be equal to the cost of replacing the electronic benefits transfer card. The fee may be deducted from the participant's benefits. The department may waive the replacement fee upon a showing of good cause, such as the malfunction of the card or extreme financial hardship.

Section 3. Paragraph (c) is added to subsection (7) of section 445.004, Florida Statutes, to read:

445.004 CareerSource Florida, Inc.; creation; purpose; membership; duties and powers.—

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(7) By December 1 of each year, CareerSource Florida, Inc., shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed annual report setting forth:

(c) For each local workforce development board, the past 3 years of participant statistics and employment outcomes, by program, for individuals subject to mandatory work requirements due to receipt of temporary cash assistance or food assistance under chapter 414, including:

1. Individuals served.

2. Services received.

3. Activities in which individuals participated.

4. Types of employment secured.

5. Individuals securing employment but remaining in each program.

6. Individuals exiting programs due to employment.

7. Employment status at 3 months, 6 months, and 12 months after exiting the program.

Section 4. Present subsections (3) through (7) of section 445.024, Florida Statutes, are renumbered as subsections (4) through (8), respectively, and a new subsection (3) is added to that section, to read:

445.024 Work requirements.—

(3) WORK PLAN AGREEMENT.—For each individual who is not otherwise exempt from work activity requirements, before the program participant may receive temporary cash assistance, the department, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, shall:

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(a) Develop a work plan agreement that must inform the participant, in plain language, of, and require the participant to assent, in writing, to:

1. The program's expectations of the participant in order for the participant to continue to receive temporary cash assistance benefits.

2. The circumstances under which the participant would be sanctioned for noncompliance.

3. The potential penalties for noncompliance with the work requirements in s. 414.065, including the length of time during which benefits would not be available to the participant.

(b) Work with the participant to develop strategies to assist the participant in overcoming obstacles to compliance with the work activity requirements.

Section 5. (1) The Office of Program Policy Analysis and Government Accountability shall conduct a study of each local workforce development board to determine what obstacles prevent participants in the Supplemental Nutrition Assistance Program and the Temporary Assistance for Needy Families Program from complying with the work requirements in the respective programs. The study must include detailed data and analysis of the reasons for which applicants and recipients do not comply with the work requirements, the reasons noncompliant applicants and recipients identify as obstacles to compliance, and the kind of assistance offered to noncompliant participants to come into compliance. The study must also include a listing of the specific reasons for the sanctions applied, separated into categories with the number of participants who received each sanction. The listing may be in the following form:

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175 (a) Failure to attend a scheduled meeting-10 people  
 176 sanctioned.  
 177 (b) Failure to complete required documents-5 people  
 178 sanctioned.  
 179 (c) Failure to comply with child support requirements, with  
 180 specifics on what the requirement was.  
 181 (2) The legislative intent for requesting this independent  
 182 study is to gain an in-depth understanding of the obstacles that  
 183 may exist for people trying to participate in the workforce,  
 184 through reviewing the specific reasons participants are  
 185 sanctioned on a region-by-region basis.  
 186 (3) The Office of Program Policy Analysis and Government  
 187 Accountability shall submit a report with its findings and  
 188 recommendations to the Governor, the President of the Senate,  
 189 the Speaker of the House of Representatives, and the minority  
 190 leaders of the Senate and the House of Representatives by  
 191 November 1, 2018.  
 192 Section 6. TANF Reemployment Pilot Program.-  
 193 (1) The Legislature finds that there is an important state  
 194 interest in assisting Temporary Assistance for Needy Families  
 195 (TANF) recipients in finding and securing stable and productive  
 196 employment and that reemployment programs have the potential to  
 197 benefit such recipients and their families and to alleviate the  
 198 financial strain on the state economy.  
 199 (2) The TANF Reemployment Pilot Program is created in  
 200 Pinellas County and shall be administered by the Pinellas  
 201 Opportunity Council, Inc.  
 202 (3) The purpose of the pilot program is to assist TANF  
 203 recipients in developing return-to-work plans with the goal of

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204 reemployment.  
 205 Section 7. For the 2018-2019 fiscal year, the sum of  
 206 \$150,000 in nonrecurring funds from the General Revenue Fund and  
 207 \$150,000 in nonrecurring funds from the Federal Grants Trust  
 208 Fund are appropriated for the TANF Reemployment Pilot Program.  
 209 Section 8. This act shall take effect July 1, 2018.

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**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 508  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, January 29, 2018  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 401 Senate Office Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1214

INTRODUCER: Senator Book

SUBJECT: Child Exploitation

DATE: January 30, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	<b>Fav/CS</b>
2.			CJ	
3.			AP	
4.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1214 repeals s. 827.071, F.S., and moves the provisions relating to sexual performance by a child and child pornography into ch. 847, F.S.

The bill also:

- Creates s. 847.003, F.S., to include the criminal offenses from s. 827.071, F.S., relating to the sexual performance by a child;
- Creates s. 794.10, F.S., authorizing criminal justice agencies to issue subpoenas for investigations involving sexual offenses against children that require the recipient of the subpoena to keep the existence and contents of the subpoena confidential.
- Amends s. 847.0137, F.S. to include the criminal offenses from s. 827.071, F.S., relating to the possession and promotion of child pornography;
- Amends the definition of child pornography and the offense of child pornography to include morphed child pornography where pornographic images are altered; and
- Revises terminology in ss. 847.0315 and 847.0137, F.S., to provide the ability to charge each act of sending or delivering child pornography as a separate offense.

The bill will likely have a fiscal impact on the state by increasing the need for prison beds.

The bill has an effective date of October 1, 2018.

## II. Present Situation:

### Florida Child Pornography Laws

Child pornography is defined, as *any* image depicting a minor, any person under the age of 18, engaged in sexual conduct.<sup>1</sup> Florida law currently contains a variety of statutes that prohibit acts relating to child pornography. Currently, these statutes are found in two different chapters, ch. 827, F.S., and ch. 847, F.S.

“Morphing” refers to a process in which a computer user distorts or transforms one image picture into another.<sup>2</sup> In recent years, individuals have started using this technique to create “morphed” child pornography, e.g., images depicting sexually explicit conduct in which an actual child’s head has been superimposed onto an adult’s body.<sup>3</sup> Florida’s child pornography laws do not include morphed pornography.

#### *Section 827.071, F.S., Sexual Performance by a Child*

Section 827.071 specifies the criminal offenses for the production of child pornography and the possession and promotion of child pornography. The following terms apply to the offenses of s. 827.071, F.S.:

- “Intentionally view” means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time;
- “Performance” means any play, motion picture, exhibition, show image, data, computer depiction, representation, or other presentation over any period of time;
- “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same;
- “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed;<sup>4</sup>
- “Sexual performance” means any performance of part thereof which includes sexual conduct by a child of less than 18 years of age; and
- “Simulated” means the explicit depiction of sexual conduct which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.<sup>5</sup>

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<sup>1</sup> S. 847.001, F.S.,

<sup>2</sup> See Merriam-Webster, *Definition of “Morph,”* available at <https://www.merriam-webster.com/dictionary/morph> (last visited January 25, 2018).

<sup>3</sup> *Computer Generated Child Pornography: A Legal Alternative?* Seattle University Law Review, Vol. 22:643, 1998, available at <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1585&context=sulr> (last visited January 26, 2018).

<sup>4</sup> S. 847.001(16), F.S., also defines “sexual conduct” in this manner.

<sup>5</sup> S. 827.071(1), F.S.



Section 827.071, F.S., also defines the terms deviate sexual intercourse, sadomasochistic abuse, sexual battery, and sexual bestiality.<sup>6</sup>

Section 827.071(2), F.S., makes it a second degree felony<sup>7</sup> for a person, knowing the character and content, to employ, authorize, or induce a child to engage in a sexual performance. It is also a second degree felony for a parent, legal guardian or custodian to consent for a child to participate in a sexual performance.<sup>8</sup>

It is also a second degree felony for a person, knowing the character and content, to produce, direct, or promote any performance which includes sexual conduct by a child.

It is a third degree felony<sup>9</sup> for a person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation, which, in whole or in part, he or she knows to include any sexual conduct by a child.<sup>10</sup>

Section 827.071(4), F.S., makes it a second degree felony for a person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child.<sup>11</sup>

### **Federal Child Pornography Laws**

Generally, the First Amendment does not protect child pornography. In *New York v. Ferber*,<sup>12</sup> the United States Supreme Court recognized that states have a compelling interest in safeguarding the physical and psychological well-being of minors and in preventing their sexual exploitation and abuse. The Court noted that it was “unlikely that visual depictions of children . . . lewdly exhibiting their genitals would often constitute an important and necessary part of a literary performance or scientific or educational work.”<sup>13</sup>

Under these principles, states have constitutionally been able to criminalize the possession, distribution, etc., of child pornography. However, the constitutionality of criminalizing such acts is less clear when the images at issue are morphed pornography.

### ***Child Pornography Prevention Action of 1996***

Prior to 1996, federal law criminalized a variety of acts relating to child pornography.<sup>14</sup> At that

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<sup>6</sup> See s. 827.071(1), F.S.

<sup>7</sup> A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>8</sup> S. 827.071(2), F.S.

<sup>9</sup> A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>10</sup> The statute also specifies that the possession, control, or intentional viewing of each such photograph, etc., is a separate offense. If such photograph, etc., includes sexual conduct by more than one child, then each child in each photograph, etc., that is knowingly possessed, controlled, or intentionally viewed is a separate offense.

<sup>11</sup> Possession of three or more copies of such photographs, etc., is prima facie evidence of intent to promote.

<sup>12</sup> 458 U.S. 747 (1982).

<sup>13</sup> *Id.* at 763.

<sup>14</sup> See, e.g., 18 U.S.C. s. 2252 (1994 ed.).

time, the statutes described such material as images created using an actual minor.<sup>15</sup> In 1996, Congress passed the Child Pornography Prevention Action of 1996 (CPPA),<sup>16</sup> which created a definition of “child pornography” which for the first time criminalized acts relating to morphed child pornography. Under the CPPA, “child pornography” was defined as:

- (8) Any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct,<sup>17</sup> where:
- (A) The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;
  - (B) Such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct (i.e., *virtual child pornography – created without using an actual child*);
  - (C) Such visual depiction has been created, adapted, or modified to appear that an identifiable minor<sup>18</sup> is engaging in sexually explicit conduct (i.e., *morphed child pornography*); or
  - (D) Such visual depiction is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct.<sup>19</sup>

### ***Case Law Following the Passage of the CPPA***

In 2002, the United States Supreme Court decided *Ashcroft v. Free Speech Coalition*,<sup>20</sup> a case in which a California trade association for the adult-entertainment industry challenged section 2256(8)(B) of the CPPA as unconstitutionally overbroad. As noted above, section 2256(8)(B) made it a crime to possess or distribute images depicting a child or what appears to be a child, engaging in sexually explicit conduct (i.e., virtual child pornography).<sup>21</sup>

The Court held that the “speech” criminalized in the challenged provision of the CPPA violated the First Amendment because it extended the federal prohibition against child pornography to sexually explicit images that appeared to depict minors but were produced without using any real children.<sup>22</sup> The Court decided that by prohibiting child pornography that did not depict an actual child, section 2256(8)(B) of the CPPA “abridged the freedom to engage in a substantial amount of lawful speech” and was therefore overbroad and unconstitutional.<sup>23</sup>

<sup>15</sup> *U.S. v. Hotaling*, 599 F.Supp. 2d 306, 309 (N.D.N.Y. 2008); *see also* 18 U.S.C. ss. 2252 and 2256 (1994 ed.).

<sup>16</sup> Pub. L. No. 104-208, s. 121.

<sup>17</sup> The term “sexually explicit conduct” was defined as actual or simulated sexual intercourse (including genital-genital, oral-genital, anal-genital, or oral-anal) whether between persons of the same or opposite sex; bestiality; masturbation; sadistic or masochistic abuse; or lascivious exhibition of the genitals or pubic area of any person. 18 U.S.C. s. 2256(2) (1996 ed.).

<sup>18</sup> The term “identifiable minor” was defined as a person who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature, and: who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting, or modifying the visual depiction. The term was not be construed to require proof of the actual identity of the identifiable minor. 18 U.S.C. s. 2256(9) (1996 ed.).

<sup>19</sup> 18 U.S.C. s. 2256(8) (1996 ed.).

<sup>20</sup> 535 U.S. 234 (2002).

<sup>21</sup> 18 U.S.C. s. 2256(8) (1996 ed.).

<sup>22</sup> *Ashcroft*, 535 U.S. at 256.

<sup>23</sup> *Id.*

The *Ashcroft* decision did not specifically address the constitutionality of 18 U.S.C. 2256(8)(C) (prohibiting *morphed* child pornography), it did note, in dictum, that “[a]lthough morphed images may fall within the definition of virtual child pornography, they implicate the interests of real children. . . .”<sup>24</sup> Courts have taken this dictum to suggest that the *Ashcroft* court would have deemed morphed child pornography as not protected by the First Amendment.<sup>25</sup>

***Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act (Protect Act)***

Congress attempted to remedy the constitutional issues raised in *Ashcroft* by passing the “Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act” (Protect Act) in 2003.<sup>26</sup> The Protect Act, in part, narrowed the definition of “virtual” child pornography in section (8)(B) of the CPPA to include virtual or computer-generated images that are “indistinguishable from” images of actual minors engaging in sexually explicit conduct.<sup>27</sup>

Notably, the definition of “morphed” child pornography contained in section 2256(8)(C) remained unchanged between the CPPA and the Protect Act.

***Case Law since the Passage of the Protect Act***

To date, the federal statutes relating to morphed child pornography have been upheld.<sup>28</sup> In *United States v. Bach*,<sup>29</sup> the defendant was convicted of possessing morphed child pornography. The image at issue showed a young nude boy sitting in a tree, grinning, with his pelvis tilted upward, his legs opened wide, and a full erection.<sup>30</sup> The photograph of a well-known child entertainer’s head had been “skillfully inserted onto the photograph of the nude boy so that the resulting image appeared to be a nude picture of [the child entertainer] sitting in the tree.”<sup>31</sup>

The defendant appealed arguing that his conviction was invalid because the definition of morphed child pornography violated the First Amendment. The United States Court of Appeals for the Eighth Circuit disagreed, holding that morphed child pornography “implicate the interests of a real child,” and creates a lasting record of an identifiable minor child seemingly engaged in sexually explicit activity.<sup>32</sup> The court noted that there may be instances when the “application of s. 2256(8)(C) violates the First Amendment, this is not such a case. This image involves the type of harm which can constitutionally be prosecuted under [*Ashcroft*] and *Ferber*.”<sup>33</sup>

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<sup>24</sup> *Id.* at 242.

<sup>25</sup> *McFadden v. Alabama*, 67 So. 3d 169, 181-182 (Ala. Crim. App. 2010).

<sup>26</sup> Pub. L. No. 108-21.

<sup>27</sup> 18 U.S.C. s. 2256(8)(B).

<sup>28</sup> See *United States v. Ramos*, 685 F. 3d 120, 134 (2d Cir. 2012), *cert. denied*, 133 S.Ct. 567 (2012); see also *Doe v. Boland*, 630 F. 3d 491, 497 (6th Cir. 2011).

<sup>29</sup> 400 F. 3d 622 (8th Cir. 2005).

<sup>30</sup> *Id.* at 625.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 632.

<sup>33</sup> *Id.* See also *United States v. Hotaling*, 634 F. 3d 725 (2d Cir. 2008), *cert. denied*, 132 S.Ct. 843 (2011) (citing *Bach*, the Court held that “child pornography created by digitally altering sexually explicit photographs of adults to display the face of a child is not protected expressive speech under the First Amendment”).

In *United States v. Anderson*, the defendant was charged with distribution of morphed child pornography relating to an image in which the face of a minor female was superimposed over the face of an adult female engaging in sex with an adult male.<sup>34</sup> The defendant moved to dismiss the charge, arguing that the definition of morphed child pornography was unconstitutionally overbroad.<sup>35</sup> The court noted that the image at issue was different from the one in *Bach* in that “no minor was sexually abused.”<sup>36</sup> However, the court held that because such images falsely portray identifiable children engaging in sexual activity, such images implicate the government’s compelling interest in protecting minors. Using this reasoning, the court held that the definition of morphed child pornography was constitutional.<sup>37</sup>

### **Florida Case Law – Child Pornography**

In 2010, Florida’s Second DCA decided *Stelmack v. State*,<sup>38</sup> a case in which the defendant was charged with violating s. 827.071(5), F.S. (possession of child pornography). The images at issue showed the faces and heads of two girls, ages 11 and 12, which were cut and pasted onto images of a 19-year old woman lewdly exhibiting her genitals.<sup>39</sup> The court closely examined the definition of “sexual conduct,” and determined that it requires images to include actual lewd exhibition of the genitals *by a child*.<sup>40</sup> Because the only sexual conduct in the images at issue was performed by an adult, the court held that the images were not prohibited by s. 827.071(5), F.S.<sup>41</sup>

The court also noted that the images depicted *simulated* lewd exhibition of the genitals by a child. The state argued that s. 827.071(5), F.S., proscribed such images because they were photographs or representations “which ... *in part* ... include ... sexual conduct by a child.”<sup>42</sup> The court disagreed and found that the legislature specifically excluded *simulated* lewd exhibition from the definition of “sexual conduct.” Specifically the court stated, “[i]f the legislature had intended to proscribe the possession of composite images that simulate lewd and lascivious exhibition of the genitals, it could have included a provision doing so. In fact, child pornography has been defined in the federal statutes to specifically include composite images. . . .”<sup>43</sup>

### **Computer Pornography**

#### ***Section 847.0135, F.S., – Computer Pornography; Prohibited Computer Usage; Traveling to Meet a Minor***

It is a third degree felony if:

- A person:
  - Knowingly compiles, enters into, or transmits by use of computer;
  - Makes, prints, publishes, or reproduces by other computerized means;

<sup>34</sup> 759 F. 3d 891 (8th Cir. 2014).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 895.

<sup>37</sup> *Id.* at 896.

<sup>38</sup> 58 So. 3d 874 (Fla. 2d DCA 2010).

<sup>39</sup> *Id.* at 875.

<sup>40</sup> *Id.* at 877

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* (emphasis in original).

<sup>43</sup> *Id.* at 876.

- Knowingly causes or allows to be entered into or transmitted by use of computer; or
- Buys, sells, receives, exchanges, or disseminates;
- Any notice, statement, or advertisement of *any* minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with *any* minor, or the visual depiction of such conduct.<sup>44</sup>

### ***Florida Case Law – Number of Offenses Charged***

In 2015, the Fourth District Court of Appeal (DCA) in *State v. Losada*, considered the number of counts that may be charged for the offenses of computer pornography under s. 847.0135(2), F.S., and transmission of child pornography under s. 847.0137(2), F.S., where more than one image of child pornography is at issue.<sup>45</sup>

In this case, the defendant sent an undercover police officer a single image containing child pornography. On a subsequent day, the officer requested and received from the defendant access to files stored on the defendant's computer, which contained 32 images of child pornography. Defendant was charged with and convicted of 33 counts of computer pornography in violation of s. 847.0135(2), F.S., and 33 counts of transmission of child pornography in violation of s. 847.0137(2), F.S. The defendant appealed his convictions, arguing that he could not be prosecuted for 33 counts of each offense because the Legislature did not intend for these offenses to be charged on an image-by-image basis.<sup>46</sup>

The court affirmed the trial court's dismissal of 31 counts of computer pornography and 31 counts of transmission of child pornography. The dismissal was based on the Florida Supreme Court's "a/any" test which holds that use of the word "a" before an item described in a statute evidences the intent of the Legislature to make each item subject to a separate prosecution; whereas, use of the word "any" before the item, is ambiguous and may evidence legislative intent that only one prosecution is intended for multiple items.<sup>47</sup>

Due to the use of the term "any" in ss. 847.0135 and 847.0137, the court concluded that the Legislature did not intend to make each individual image subject to separate prosecution.<sup>48</sup>

### ***Section 847.0137, F.S., Transmitting Child Pornography***

Section 847.0137, F.S., specifies that any person who knew or reasonably should have known that he or she was transmitting child pornography to another person it is a third degree felony.

The following definitions apply to the above-described offense:

- "Child pornography" means *any* image depicting a minor engaged in sexual conduct;
- "Minor" means any person under the age of 18 years;
- "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the

<sup>44</sup> S. 847.0135(2), F.S.

<sup>45</sup> 175 So. 3d 911 (Fla. 4th DCA 2015).

<sup>46</sup> *Id.* at 912.

<sup>47</sup> *Id.* at 913-914.

<sup>48</sup> *Id.* at 914-915

genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed;

- “Simulated” means the explicit depiction of sexual conduct which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks; and
- “Transmit” means the act of sending and causing to be delivered any image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet, by use of any electronic equipment or device.<sup>49</sup>

### ***Florida Case law – Transmitting Child Pornography***

Recently, the Florida Supreme Court resolved a conflict between two District Courts of Appeal (DCAs) that considered whether the definition of “transmit” as used in s. 847.0137, F.S., to prohibit the transmission of child pornography includes transmission via a file-sharing program. According to the Fifth DCA in *Biller v. State*, the definition did not;<sup>50</sup> whereas, the Fourth DCA in *Smith v. State*,<sup>51</sup> found that a file-sharing program could be used to transmit child pornography in violation of s. 847.0137, F.S.

The Florida Supreme court affirmed the Fourth DCA's decision in *Smith* and held “that the use of a file-sharing program, where the originator affirmatively grants the receiver access to child pornography placed by the originator in files accessible through the file-sharing program, constitutes the transmission of child pornography under the plain meaning of s. 847.0137, F.S.”<sup>52</sup>

### **Subpoenas in Investigations involving Sexual Offenses against Children**

A subpoena is an order directed to a person which requires his or her attendance at a particular time and place to testify as a witness. A subpoena may also require the witness to bring documents or other tangible evidence that may be introduced as evidence in a case.<sup>53</sup> The Sixth Amendment to the United States Constitution guarantees the defendant in a criminal case the right to have compulsory process for obtaining witnesses in his or her favor.<sup>54</sup> Subpoenas may be

<sup>49</sup> S. 847.001, F.S.

<sup>50</sup> 109 So. 3d 1240 (Fla. 5th DCA 2013).

<sup>51</sup> 190 So. 3d 94 (Fla. 4th DCA 2015).

<sup>52</sup> 204 So. 3d 18, 19 (Fla. 2016).

<sup>53</sup> BLACK'S LAW DICTIONARY, *What is Subpoena?*, <http://thelawdictionary.org/subpoena/> (last visited January 25, 2018).

<sup>54</sup> U.S. Const. am. 6

issued in a criminal investigation<sup>55</sup> or in a criminal prosecution during discovery<sup>56</sup> or for trial<sup>57</sup> by the defendant, his or her counsel, or the state attorney. Generally, a subpoena must state the name of the court, the title of action, and the time and the place at which the witness is commanded to give testimony or produce evidence.<sup>58</sup> Once a witness is subpoenaed by either party, he or she must remain available for attendance until the case is resolved or until he or she is excused by the court hearing the case.<sup>59</sup> A witness's failure to do so could result in contempt of court.<sup>60</sup>

In some cases, a subpoena may require the recipient of the subpoena to not disclose the existence or contents of the subpoena. For example, Florida statute authorizes an agency that is investigating<sup>61</sup> a violation of Florida's Racketeer Influenced and Corrupt Organizations (RICO) Act<sup>62</sup> to issue a civil investigative subpoena for testimony or documents.<sup>63</sup> This subpoena is confidential for 120 days, meaning the recipient of the subpoena may not disclose its contents or existence to any person or entity other than his or her attorney during that period.<sup>64</sup> The 120-day period may be extended by a circuit court upon showing of good cause by the investigative agency.<sup>65</sup> For good cause to exist, there must be a showing:

- Of sufficient factual grounds to reasonably indicate a violation of ss. 895.01 – 895.06, F.S.;
- That the documents or testimony requested appear reasonably calculated to lead to the discovery of admissible evidence; and
- Of facts that reasonably indicate that disclosure of the subpoena would hamper or impede the investigation, or would result in a flight from prosecution.<sup>66</sup>

Upon failure of the person or enterprise to comply with the subpoena, the investigative agency may apply to the circuit court to enforce the subpoena.<sup>67</sup>

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<sup>55</sup> Florida law authorizes certain entities to use subpoenas for the purpose of conducting criminal investigations, including, but not limited to, S. 409.920, F.S. (authorizing the Attorney General to subpoena witnesses or materials, including medical records, during an investigation for Medicaid fraud); S. 415.107, F.S. (authorizing a criminal justice agency investigating a report related to abuse, neglect, or exploitation of a vulnerable adult to subpoena related records); and S. 414.411, F.S. (authorizing Department of Financial Services to subpoena witnesses and records related to a public assistance fraud investigation).

<sup>56</sup> Fla. R. Crim. P. 3.220 (h), allows any party to conduct a deposition by oral examination of any person authorized by the rule, generally including listed witnesses, co-defendants, or unlisted witnesses who have information relevant to the offense charged. The rule provides that the issuance of the subpoena for deposition is the same as provided for in the Florida Rules of Civil Procedure.

<sup>57</sup> Fla. R. Crim. P. 3.361(a), provides that subpoenas for testimony before the court and subpoenas for production of tangible evidence before the court may be issued by the clerk of the court or by any attorney of record in the case.

<sup>58</sup> *Id.*

<sup>59</sup> S. 914.03, F.S.

<sup>60</sup> *Id.*

<sup>61</sup> In order to issue a subpoena, the level of proof required is that there must be "something more than a fishing expedition, and something less than probable cause." *Check 'n Go of Florida, Inc. v. State* 790 So.2d 454, 458 (Fla. 5th DCA 2001).

<sup>62</sup> The Racketeer Influenced and Corrupt Organizations Act was passed by Congress in 1970 as part of the Organized Crime Control Act of 1970. Florida passed its own RICO Act in 1977.

<sup>63</sup> S. 895.06, F.S.

<sup>64</sup> S. 895.06(2), F.S.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> S. 895.06(4), F.S.

Similarly, federal law authorizes the Federal Bureau of Investigation (FBI) to issue a National Security Letter (NSL), which is an administrative subpoena that allows the FBI to obtain records from wire or electronic communication service providers if the records are relevant to investigations related to terrorism or clandestine intelligence activities.<sup>68</sup> For such subpoenas, the FBI may require nondisclosure if it certifies that disclosure may result in danger to the national security of the United States; interference with a criminal counterterrorism, or counterintelligence investigation; interference with diplomatic relations; or danger to the life or physical safety of any person.<sup>69</sup>

To avoid potential First Amendment concerns with such a restraint on speech, Congress passed the USA FREEDOM Act of 2015, which in relevant part authorizes a recipient of a NSL/subpoena to notify the federal government or file a petition for judicial review if the recipient wishes to have a court review a nondisclosure requirement in such subpoena.<sup>70</sup> Courts have upheld the FBI's authority to issue the subpoenas and the accompanying nondisclosure requirements because of the government interest in protecting national security and the provisions for judicial review included in the Act.<sup>71</sup>

### III. Effect of Proposed Changes:

#### Child Pornography

##### *Section 827.071, F.S., Sexual Performance by a Child*

**Section 29** repeals s. 827.071, F.S.

##### *Section 847.003, F.S., Sexual Performance by a Child*

**Section 31** creates s. 847.003, F.S.

The bill moves the criminal offenses from s. 827.071, F.S., relating to the sexual performance by a child, to the newly created s. 847.003, F.S. The bill changes the elements of these offenses.

The bill also moves the definitions of the terms “performance,” “promote,” and “sexual performance,” from s. 827.071, F.S., to s. 847.003, F.S. The bill does not change the definitions of these terms.

##### *Section 847.0137, F.S., Child Pornography*

**Section 34** moves the criminal offenses from s. 827.071, F.S., for the possession and promotion of child pornography to s. 847.0137, F.S., and makes the following changes:

The bill defines the terms child pornography, identifiable minor, and visual depiction to mirror the federal definitions in 18 U.S.C. s. 2256.

The bill defines child pornography to mean *a* visual depiction of sexual conduct, in which:

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<sup>68</sup> 18 USC § 2709(b)(1).

<sup>69</sup> Id. at § 2709(c)(1)(B).

<sup>70</sup> 18 USC § 3511(b)(1)(A).

<sup>71</sup> *In re Nat'l Sec. Letters*, 2016 WL 7017215 (D.D.C. July 25, 2016); *In re Nat'l Sec. Letter*, 165 F.Supp.3d 352 (D. Md. 2015).



- The production of such visual depiction involves the use of a minor engaging in sexual conduct; or
- Such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct.

An identifiable minor is a person who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature and:

- Who was a minor at the time the visual depiction was created, adapted, or modified; or
- Whose image as a minor was used in creating, adapting, or modifying the visual depiction.

As in 18 U.S.C. s. 2256(9), the bill does not require proof of the actual identity of the identifiable minor.

A visual depiction includes, but is not limited to, a photograph, picture, image, motion picture, film, video, representation, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means. The term also includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data that is capable of conversion into a visual image that has been transmitted by any means, whether stored in a permanent or nonpermanent format.

The bill also moves the definitions of the terms “intentionally view” and “promote” from s. 827.071, F.S., to s. 847.0137, F.S. The bill does not change the definitions of these terms.

The bill amends the definition of “transmit” to add that the act of sending and causing to be delivered *includes the act of providing access for receiving and causing to be delivered*. The bill also removes the reference to *any image* and replaces it with *visual depiction*. The bill also adds *an interconnected network* to the definition of transmit.

The definition of “transmit” now reads, “act of sending and causing to be delivered, including the act of providing access for receiving and causing to be delivered, a visual depiction, information, or data over or through any medium, including the Internet or an interconnected network, by use of electronic equipment or other device.”

The bill amends the offenses of possession and promotion of child pornography to include newly defined term “visual depiction.”

Cumulatively, the above-described changes make it a crime to possess, promote, and transmit morphed child pornography in Florida.

The bill amends s. 847.0137, F.S., to change the term “any” to “a” where it is used in the offense of the transmission of child pornography. These changes result in the ability to charge transmission of child pornography offenses separately based upon each visual depiction, data, or information and each recipient.

The bill also makes numerous conforming changes that reflect the repeal of s. 827.071, F.S., the creation of s. 847.003, F.S., and the expansion of s. 847.0137, F.S.

***Section 847.001, F.S., Definitions***

**Section 30** changes the definition of “child pornography” and “minor” to incorporate the court’s findings in *State v. Losada*, 175 So. 3d 911 (Fla. 4th DCA 2015).

The bill removes the current definition of child pornography, “any image depicting a minor engaged in sexual conduct,” and instead defines the term by a cross-reference to the definition of child pornography created by the bill in s. 847.0137, F.S.

The bill changes the term “minor” to “minor or child” and defines it to mean a person under the age of 18 years.

The bill expands the definition of “sexual conduct” applicable to all of ch. 847, F.S., to include “simulated” lewd exhibition of the genitals.

**Computer Pornography*****Section 847.0135, F.S., Computer Pornography; Child Exploitation***

**Section 32** amends s. 847.0135, F.S., to change the term “any” to “a” where used in the provisions for the offense of computer pornography. These changes result in the ability to charge computer pornography offenses separately based upon each notice, statement, or advertisement and each minor affected.

**Subpoenas**

**Section 27** creates s. 794.10, F.S., authorizing a criminal justice agency to issue a subpoena for any investigation of an offense involving:

- The sexual exploitation or abuse of a child;
- An offense listed in s. 943.043, for which a conviction or withhold of adjudication would require an individual to register with the state as a sexual offender; or
- An offense under ch. 847, F.S., involving a child who doesn’t qualify under the first two prongs.

The subpoena may require the production of any relevant record, object, or other information relevant to the investigation and may also require the custodian of the record to testify as to its authenticity. The subpoena must identify and describe any record, object, or other information that is required to be produced or testified to and provide a reasonable return date by which the record, object, or information must be submitted.

The bill defines:

- “Child” as a person who is less than 18 years of age.
- “Criminal justice agency” as a law enforcement agency, court, or prosecutor in this state.
- “Sexual exploitation or abuse of a child” as a criminal offense based on any conduct described in s. 39.01(71), F.S. This definition includes sexual abuse of a child, engaging in sexual acts in front of or with a child, and engaging in human trafficking of a child.

### ***Nondisclosure Requirement***

The bill allows a criminal justice agency to require that the recipient of the subpoena not disclose the existence or contents of the subpoena. In order for the subpoena to be subject to a nondisclosure requirement, it must be accompanied by a written certification that disclosure of the subpoena may result in one of the following circumstances:

- Endangering a person's life or physical safety;
- Encouraging a person's flight from prosecution;
- Destruction of or tampering with evidence;
- Intimidation of potential witnesses; or
- Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

Upon such written certification, the recipient is prohibited from disclosing the contents or existence of the subpoena for 180 days, except that a recipient may disclose the subpoena and its contents to:

- A person to whom disclosure is necessary in order to comply with the subpoena;
- An attorney to obtain legal advice or assistance regarding the subpoena; or
- Any other person authorized by the criminal justice agency issuing the subpoena.

A person to whom such disclosure is made is bound by the same nondisclosure requirements as the original recipient. A criminal justice agency may require the person disclosing the subpoena to provide the identity of the person to whom he or she is disclosing. If a person refuses to comply with the subpoena, the criminal justice agency may request that the circuit court issue an order to comply. The circuit court may then issue an order, a violation of which may be punishable as contempt of court.

### ***Petition Process and Judicial Review***

The bill allows the subpoena recipient to challenge its requirements at any time before the return date by petitioning the circuit court of the county in which he or she lives. The bill also allows the subpoena recipient to challenge a nondisclosure requirement by filing a petition for judicial review in the circuit court or notifying the criminal justice agency that issued the subpoena. The petition may be for an order to modify or set aside the subpoena, or to modify or set aside the prohibition of disclosure of information.

### ***Other Effects***

Witnesses subpoenaed to testify are reimbursed for fees and mileage at the same rate at which witnesses appearing before Florida courts are reimbursed.<sup>72</sup> A subpoena issued under the bill must not require the production of anything that is protected from production with a subpoena duces tecum issued by a Florida court.<sup>73</sup>

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<sup>72</sup> Section 92.142, F.S. establishes the amount that witnesses in a court in Florida will be reimbursed for their time. Consideration is given to the length of testimony, the distance traveled, and the reason testifying.

<sup>73</sup> A subpoena may request evidence that is relevant and admissible or is reasonably calculated to lead to admissible evidence. *Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 94 (Fla. 1995). Certain documents, such as materials prepared for trial or work products, are not discoverable under the Florida Rules of Civil Procedure. Fla. R. Civ. P. 1.280.

The bill allows criminal justice agencies to require the production of documents as soon as possible, but the recipient of the subpoena must be given at least 24 hours after he or she is served to comply. The criminal justice agency must return any original documents or objects upon request, within a reasonable time, if prosecution does not occur.

The bill provides that the service of a subpoena under this section may be served as provided in ch. 48, F.S.

The bill provides immunity from civil liability for persons disclosing information requested in the subpoena. This allows persons with information needed by the criminal justice agency to disclose it without fear that the person being investigated may sue them for disclosing the information.

### **Other**

**Section 61** directs the Division of Law Revision and Information to rename the chapter as “Obscenity; Child Exploitation” in order to better clarify the contents of ch. 847, F.S.

**Sections 1 – 26, 28, 33, and 35 – 60**, amend ss. 16.56, 39.01, 39.0132, 39.0139, 39.301, 39.509, 90.404, 92.56, 92.561, 92.565, 435.04, 435.07, 456.074, 480.041, 480.043, 743.067, 772.102, 775.082, 775.0847, 775.0877, 775.21, 775.215, 784.046, 794.0115, 794.024, 794.056, 796.001, 847.01357, 856.022, 895.02, 905.34, 934.07, 938.085, 938.10, 943.0435, 943.04354, 943.0585, 943.059, 944.606, 944.607, 947.1405, 948.013, 948.03, 948.04, 948.06, 948.062, 948.101, 948.30, 948.32, 960.03, 960.197, 985.04, 985.475, 1012.315 and 921.0022, F.S., to conform provisions to changes made by the bill and correct cross references.

**Sections 62 – 132** amend ss. 39.402, 39.506, 39.509, 39.521, 39.524, 39.806, 63.089, 63.092, 68.07, 92.55, 92.605, 322.141, 381.004, 384.29, 390.01114, 393.067, 394.495, 394.9125, 397.4872, 409.1678, 435.07, 655.50, 741.313, 775.084, 775.0862, 775.13, 775.21, 775.24, 775.25, 775.261, 784.049, 794.011, 794.03, 794.075, 847.002, 847.012, 847.01357, 847.0138, 896.101, 903.0351, 903.046, 905.34, 921.0022, 921.141, 921.187, 943.0435, 943.0436, 943.325, 944.11, 944.607, 944.608, 944.609, 944.70, 947.13, 947.1405, 947.141, 948.06, 948.063, 948.064, 948.08, 948.12, 948.30, 948.31, 951.27, 960.003, 960.065, 984.03, 985.0301, 985.04, 985.441, 985.4815, and 1012.467, F.S., to reenact provisions to incorporate changes made by the bill.

**Section 133** directs the Division of Law Revision and Information to capitalize the first letter of each word in the term “Child Protection Team” wherever it appears in the Florida Statutes.

**Section 134** provides an effective date of October 1, 2018.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference (CJIC) met on January 8, 2018, and determined the bill would significantly increase the prison population by an indeterminate amount.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 16.56, 39.01, 39.0132, 39.0139, 39.301, 39.509, 90.404, 92.56, 92.561, 92.565, 435.04, 435.07, 456.074, 480.041, 480.043, 743.067, 772.102, 775.082, 775.0847, 775.0877, 775.21, 775.215, 784.046, 794.0115, 794.024, 794.056, 796.001, 847.001, 847.0135, 847.01357, 847.0137, 856.022, 895.02, 905.34, 934.07, 938.085, 938.10, 943.0435, 943.04354, 943.0585, 943.059, 944.606, 944.607, 947.1405, 948.013, 948.03, 948.04, 948.06, 948.062, 948.101, 948.30, 948.32, 960.03, 960.197, 985.04, 985.475, 1012.315 and 921.0022.

This bill creates section 847.003 of the Florida Statutes.

This bill creates section 794.10 of the Florida Statutes.

This bill repeals section 827.071 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 39.402, 39.506, 39.509, 39.521, 39.524, 39.806, 63.089, 63.092, 68.07, 92.55, 92.605, 322.141, 381.004, 384.29, 390.01114, 393.067, 394.495, 394.9125, 397.4872, 409.1678, 435.07, 655.50, 741.313, 775.084, 775.0862, 775.13, 775.21, 775.24, 775.25, 775.261, 784.049, 794.011, 794.03, 794.075, 847.002, 847.012, 847.01357, 847.0138, 896.101, 903.0351, 903.046, 905.34, 921.0022, 921.141, 921.187, 943.0435, 943.0436, 943.325, 944.11, 944.607, 944.608, 944.609, 944.70, 947.13, 947.1405, 947.141, 948.06, 948.063, 948.064, 948.08, 948.12, 948.30, 948.31, 951.27, 960.003, 960.065, 984.03, 985.0301, 985.04, 985.441, 985.4815, and 1012.467.

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on January 29, 2018:**

- Removes references and terminology relating to investigations involving a child sexual offender and their failure to register as a sexual predator or sexual offender.
- Broadens the authority of criminal justice agencies to issue subpoenas under the newly created s. 794.10 in investigations of individuals suspected of committing a crime which would require registration with the state as a sexual offender.
- Directs the Division of Law Revision and Information to capitalize the first letter of each word in the term “Child Protection Team” wherever it appears in the Florida Statutes.

**B. Amendments:**

None.



283158

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Children, Families, and Elder Affairs (Book)  
recommended the following:

**Senate Amendment**

Delete lines 1152 - 1156.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Children, Families, and Elder Affairs (Book)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1165 - 1167  
and insert:  
an individual's suspected commission of a crime listed in  
s. 943.0435(1)(h)1.a.(I); or

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 62 - 63





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11 and insert:

12       Subpoenas in certain investigations of offenses  
13       involving child victims and other specified offenses  
14       and specifying requirements



659158

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Children, Families, and Elder Affairs (Book)  
recommended the following:

**Senate Amendment (with title amendment)**

Between lines 5805 and 5806  
insert:

Section 133. The Division of Law Revision and Information  
is directed to capitalize the first letter of each word in the  
term "Child Protection Team" wherever it appears in the Florida  
Statutes.

===== T I T L E   A M E N D M E N T =====



659158

11 And the title is amended as follows:  
12       Delete line 233  
13 and insert:  
14       amended provisions; providing a directive to the  
15       Division of Law Revision and Information; providing an  
16       effective date.

By Senator Book

32-00268A-18

20181214\_\_

1 A bill to be entitled  
 2 An act relating to child exploitation; amending s.  
 3 16.56, F.S.; revising the offenses that may be  
 4 investigated and prosecuted by the Office of Statewide  
 5 Prosecution; amending s. 39.01, F.S.; conforming  
 6 provisions to changes made by the act; amending s.  
 7 39.0132, F.S.; revising the types of offenses  
 8 committed by a child in certain custody or supervision  
 9 of the Department of Children and Families which  
 10 require the department to provide notice to the school  
 11 superintendent; conforming provisions to changes made  
 12 by the act; amending s. 39.0139, F.S.; revising the  
 13 types of offenses that create a rebuttable presumption  
 14 of detriment for judicial determinations related to  
 15 contact between a parent or caregiver and certain  
 16 child victims; conforming provisions to changes made  
 17 by the act; amending s. 39.301, F.S.; conforming  
 18 provisions to changes made by the act; amending s.  
 19 39.509, F.S.; revising the offenses that may be  
 20 considered in determining whether grandparental  
 21 visitation is in the child's best interest; conforming  
 22 provisions to changes made by the act; amending s.  
 23 90.404, F.S.; conforming provisions to changes made by  
 24 the act; amending s. 92.56, F.S.; revising the  
 25 offenses for which a criminal defendant may seek an  
 26 order of disclosure for certain confidential and  
 27 exempt court records, for which the state may use a  
 28 pseudonym instead of the victim's name, and for which  
 29 a publication or broadcast of trial testimony may not

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-00268A-18

20181214\_\_

30 include certain victim identifying information;  
 31 conforming provisions to changes made by the act;  
 32 amending ss. 92.561, 92.565, and 435.04, F.S.;  
 33 conforming provisions to changes made by the act;  
 34 amending s. 435.07, F.S.; revising the offenses that  
 35 disqualify certain child care personnel from specified  
 36 employment; conforming provisions to changes made by  
 37 the act; amending s. 456.074, F.S.; revising the  
 38 offenses for which the licenses of massage therapists  
 39 and massage establishments must be suspended;  
 40 conforming provisions to changes made by the act;  
 41 amending ss. 480.041 and 480.043, F.S.; revising the  
 42 offenses for which applications for licensure as a  
 43 massage therapist or massage establishment must be  
 44 denied; conforming provisions to changes made by the  
 45 act; amending s. 743.067, F.S.; revising the offenses  
 46 for which an unaccompanied homeless youth may consent  
 47 to specified treatment, care, and examination;  
 48 conforming provisions to changes made by the act;  
 49 amending ss. 772.102 and 775.082, F.S.; conforming  
 50 provisions to changes made by the act; amending s.  
 51 775.0847, F.S.; revising definitions; conforming  
 52 provisions to changes made by the act; amending ss.  
 53 775.0877, 775.21, 775.215, 784.046, and 794.0115,  
 54 F.S.; conforming provisions to changes made by the  
 55 act; amending s. 794.024, F.S.; revising the offenses  
 56 for which certain victim information may not be  
 57 disclosed by public employees or officers; providing  
 58 penalties; conforming provisions to changes made by

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 the act; amending s. 794.056, F.S.; conforming  
 60 provisions to changes made by the act; creating s.  
 61 794.10, F.S.; providing definitions; authorizing  
 62 subpoenas in certain investigations of sexual offenses  
 63 involving child victims and specifying requirements  
 64 therefor; providing for specified reimbursement of  
 65 witnesses; authorizing certain motions; requiring  
 66 nondisclosure of the existence or contents of the  
 67 subpoenas in certain circumstances; providing  
 68 exceptions to such nondisclosure requirement;  
 69 requiring certain notice to be provided in a subpoena  
 70 that contains a nondisclosure requirement; exempting  
 71 certain records, objects, and other information from  
 72 production; providing for the return of records,  
 73 objects, and other information produced; specifying  
 74 time periods within which records, objects, and other  
 75 information must be returned; providing for service  
 76 and enforcement of the subpoenas; providing penalties  
 77 for a violation of the subpoena or nondisclosure  
 78 requirement; providing immunity for certain persons  
 79 complying with the subpoenas in certain circumstances;  
 80 providing for judicial review and extension of such  
 81 nondisclosure requirements and specifying requirements  
 82 therefor; amending s. 796.001, F.S.; conforming  
 83 provisions to changes made by the act; repealing s.  
 84 827.071, F.S., relating to sexual performance by a  
 85 child; amending s. 847.001, F.S.; revising  
 86 definitions; creating s. 847.003, F.S.; providing  
 87 definitions; prohibiting a person from using a child

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88 in a sexual performance or promoting a sexual  
 89 performance by a child; providing penalties; amending  
 90 s. 847.0135, F.S.; providing for separate offenses of  
 91 computer pornography and child exploitation under  
 92 certain circumstances; conforming provisions to  
 93 changes made by the act; amending s. 847.01357, F.S.;  
 94 conforming provisions to changes made by the act;  
 95 amending s. 847.0137, F.S.; revising and providing  
 96 definitions; prohibiting a person from possessing,  
 97 with the intent to promote, child pornography;  
 98 prohibiting a person from knowingly possessing,  
 99 controlling, or intentionally viewing child  
 100 pornography; providing penalties; providing  
 101 application and construction; providing for separate  
 102 offenses of transmission of child pornography under  
 103 certain circumstances; amending ss. 856.022, 895.02,  
 104 905.34, and 934.07, F.S.; conforming provisions to  
 105 changes made by the act; amending s. 938.085, F.S.;  
 106 revising the offenses for which a surcharge to be  
 107 deposited into the Rape Crisis Program Trust Fund must  
 108 be imposed; conforming provisions to changes made by  
 109 the act; amending s. 938.10, F.S.; revising the  
 110 offenses for which an additional court cost must be  
 111 imposed; conforming provisions to changes made by the  
 112 act; amending ss. 943.0435, 943.04354, 943.0585,  
 113 943.059, 944.606, 944.607, 947.1405, 948.03, and  
 114 948.04, F.S.; conforming provisions to changes made by  
 115 the act; amending s. 948.06, F.S.; revising the  
 116 offenses that constitute a qualifying offense for

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117 purposes relating to a violation of probation or  
 118 community control; conforming provisions to changes  
 119 made by the act; amending ss. 948.062, 948.101,  
 120 948.30, 948.32, 960.03, and 960.197, F.S.; conforming  
 121 provisions to changes made by the act; amending s.  
 122 985.04, F.S.; revising the types of offenses committed  
 123 by a child in certain custody or supervision of the  
 124 Department of Juvenile Justice which require the  
 125 department to provide notice to the school  
 126 superintendent; conforming provisions to changes made  
 127 by the act; amending ss. 985.475 and 1012.315, F.S.;  
 128 conforming provisions to changes made by the act;  
 129 amending s. 921.0022, F.S.; ranking the offense of  
 130 solicitation of a child via a computer service while  
 131 misrepresenting one's age on the offense severity  
 132 ranking chart; conforming provisions to changes made  
 133 by the act; providing a directive to the Division of  
 134 Law Revision and Information; reenacting ss.  
 135 39.402(9)(a), 39.506(6), 39.509(6)(b), 39.521(3)(d),  
 136 39.806(1)(d) and (n), 63.089(4)(b), 63.092(3),  
 137 68.07(3)(i) and (6), 92.55(1)(b), 92.605(1)(b),  
 138 322.141(3), 381.004(2)(h), 384.29(1)(c) and (3),  
 139 390.01114(2)(b) and (e), 393.067(4)(h), (7), and (9),  
 140 394.495(4)(p), 394.9125(2)(a), 397.4872(2)(a) and (c),  
 141 435.07(4)(b), 507.07(9), 655.50(3)(g), 741.313(1)(e),  
 142 775.084(4)(j), 775.0862(2), 775.13(4)(e) and (f),  
 143 775.21(3)(b), (5)(d), (6)(f), and (10)(c), 775.24(2),  
 144 775.25, 775.261(3)(b), 784.049(2)(d), 794.011(2)(a),  
 145 (3), (4), and (5), 794.03, 794.075(1), 847.002(1)(b),

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146 (2), and (3), 847.012(3)(b), 847.01357(3), 847.0138(2)  
 147 and (3), 896.101(2)(h) and (10), 903.0351(1)(b) and  
 148 (c), 903.046(2)(m), 905.34(3), 921.0022(3)(g),  
 149 921.141(6)(o), 943.0435(3), (4)(a), and (5),  
 150 943.0436(2), 943.325(2)(g), 944.11(2), 944.607(4)(a)  
 151 and (9), 944.608(7), 944.609(4), 944.70(1),  
 152 947.13(1)(f), 947.1405(2)(c) and (12), 947.141(1),  
 153 (2), and (7), 948.013(2)(b), 948.06(8)(b) and (d),  
 154 948.063, 948.064(4), 948.08(7)(a), 948.12(3),  
 155 948.30(3)(b) and (4), 948.31, 951.27, 960.003(2)(a)  
 156 and (b) and (3)(a), 960.065(5), 984.03(2),  
 157 985.0301(5)(c), 985.04(6)(b), 985.441(1)(c),  
 158 985.4815(9), and 1012.467(2)(g), F.S., relating to  
 159 placement in a shelter, arraignment hearings,  
 160 grandparents rights, disposition hearings, grounds for  
 161 termination of parental rights, proceedings to  
 162 terminate parental rights pending adoption, report to  
 163 the court of intended placement by an adoption entity,  
 164 change of name, proceedings involving certain victims  
 165 or witnesses, production of certain records, color or  
 166 markings of certain licenses or identification cards,  
 167 HIV testing, confidentiality, the Parental Notice of  
 168 Abortion Act, facility licensure, the child and  
 169 adolescent mental health system of care, authority of  
 170 a state attorney to refer a person for civil  
 171 commitment, exemption from disqualification,  
 172 exemptions from disqualification, violations by movers  
 173 or moving brokers, Florida Control of Money Laundering  
 174 and Terrorist Financing in Financial Institutions Act,

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175 unlawful action against employees seeking protection,  
 176 violent career criminals, habitual felony offenders,  
 177 and habitual violent felony offenders, sexual offenses  
 178 against students by authority figures, registration of  
 179 convicted felons, the Florida Sexual Predators Act,  
 180 duty of the court to uphold laws governing sexual  
 181 predators and sexual offenders, prosecutions for acts  
 182 or omissions, career offender registration, sexual  
 183 cyberharassment, sexual battery, publishing or  
 184 broadcasting information identifying sexual offense  
 185 victims, sexual predators and erectile dysfunction  
 186 drugs, child pornography prosecutions, sale or  
 187 distribution of harmful materials to minors or using  
 188 minors in production, civil remedies for exploited  
 189 children, transmission of material harmful to minors  
 190 to a minor by electronic device or equipment, the  
 191 Florida Money Laundering Act, restrictions on pretrial  
 192 release pending probation-violation hearings or  
 193 community-control-violation hearings, purposes of and  
 194 criteria for bail determination, the powers and duties  
 195 of a statewide grand jury, the offense severity  
 196 ranking chart of the Criminal Punishment Code,  
 197 sentence of death or life imprisonment for capital  
 198 felonies, sexual offenders required to register with  
 199 the Department of Law Enforcement, duty of the court  
 200 to uphold laws governing sexual predators and sexual  
 201 offenders, DNA database, regulation by the Department  
 202 of Corrections of the admission of books, notification  
 203 to the Department of Law Enforcement of information on

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204 sexual offenders, notification to the Department of  
 205 Law Enforcement concerning career offenders, career  
 206 offenders and notification upon release, conditions  
 207 for release from incarceration, powers and duties of  
 208 the Florida Commission on Offender Review, the  
 209 conditional release program, violations of conditional  
 210 release, control release, or conditional medical  
 211 release or addiction-recovery supervision,  
 212 administrative probation, violation of probation or  
 213 community control, violations of probation or  
 214 community control by designated sexual offenders and  
 215 predators, notification of status as a violent felony  
 216 offender of special concern, the pretrial intervention  
 217 program, intensive supervision for postprison release  
 218 of violent offenders, additional terms and conditions  
 219 of probation or community control for certain sex  
 220 offenses, the evaluation and treatment of sexual  
 221 predators and offenders on probation or community  
 222 control, blood tests of inmates, hepatitis and HIV  
 223 testing for persons charged with or alleged by  
 224 petition for delinquency to have committed certain  
 225 offenses, eligibility for victim assistance awards,  
 226 definitions relating to children and families in need  
 227 of services, jurisdiction, oaths, records, and  
 228 confidential information, commitment, notification to  
 229 Department of Law Enforcement of information on  
 230 juvenile sexual offenders, and contractors permitted  
 231 access to school grounds, respectively, to incorporate  
 232 the amendments made by the act in cross-references to

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233 amended provisions; providing an effective date.

234

235 Be It Enacted by the Legislature of the State of Florida:

236

237 Section 1. Paragraph (a) of subsection (1) of section  
238 16.56, Florida Statutes, is amended, and paragraph (b) of that  
239 subsection is republished, to read:

240 16.56 Office of Statewide Prosecution.—

241 (1) There is created in the Department of Legal Affairs an  
242 Office of Statewide Prosecution. The office shall be a separate  
243 “budget entity” as that term is defined in chapter 216. The  
244 office may:

245 (a) Investigate and prosecute the offenses of:

246 1. Bribery, burglary, criminal usury, extortion, gambling,  
247 kidnapping, larceny, murder, prostitution, perjury, robbery,  
248 carjacking, home-invasion robbery, and patient brokering;

249 2. Any crime involving narcotic or other dangerous drugs;

250 3. Any violation of the Florida RICO (Racketeer Influenced  
251 and Corrupt Organization) Act, including any offense listed in  
252 the definition of racketeering activity in s. 895.02(8)(a),  
253 providing such listed offense is investigated in connection with  
254 a violation of s. 895.03 and is charged in a separate count of  
255 an information or indictment containing a count charging a  
256 violation of s. 895.03, the prosecution of which listed offense  
257 may continue independently if the prosecution of the violation  
258 of s. 895.03 is terminated for any reason;

259 4. Any violation of the Florida Anti-Fencing Act;

260 5. Any violation of the Florida Antitrust Act of 1980, as  
261 amended;

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262 6. Any crime involving, or resulting in, fraud or deceit  
263 upon any person;

264 7. Any violation of s. 847.0135, relating to computer  
265 pornography and child exploitation ~~prevention~~, or any offense  
266 related to a violation of ~~former s. 827.071, s. 847.003, s.~~  
267 847.0135, or s. 847.0137 ~~any violation of chapter 827~~ where the  
268 crime is facilitated by or connected to the use of the Internet  
269 or any device capable of electronic data storage or  
270 transmission;

271 8. Any violation of chapter 815;

272 9. Any criminal violation of part I of chapter 499;

273 10. Any violation of the Florida Motor Fuel Tax Relief Act  
274 of 2004;

275 11. Any criminal violation of s. 409.920 or s. 409.9201;

276 12. Any crime involving voter registration, voting, or  
277 candidate or issue petition activities;

278 13. Any criminal violation of the Florida Money Laundering  
279 Act;

280 14. Any criminal violation of the Florida Securities and  
281 Investor Protection Act; or

282 15. Any violation of chapter 787, as well as any and all  
283 offenses related to a violation of chapter 787;

284

285 or any attempt, solicitation, or conspiracy to commit any of the  
286 crimes specifically enumerated above. The office shall have such  
287 power only when any such offense is occurring, or has occurred,  
288 in two or more judicial circuits as part of a related  
289 transaction, or when any such offense is connected with an  
290 organized criminal conspiracy affecting two or more judicial



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circuits. Informations or indictments charging such offenses shall contain general allegations stating the judicial circuits and counties in which crimes are alleged to have occurred or the judicial circuits and counties in which crimes affecting such circuits or counties are alleged to have been connected with an organized criminal conspiracy.

(b) Investigate and prosecute any crime enumerated in paragraph (a) facilitated by or connected to the use of the Internet. Any such crime is a crime occurring in every judicial circuit within the state.

Section 2. Paragraph (c) of subsection (30) and paragraph (g) of subsection (71) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(30) "Harm" to a child's health or welfare can occur when any person:

(c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by former s. 827.071 or s. 847.003 ~~chapter 827~~.

(71) "Sexual abuse of a child" for purposes of finding a child to be dependent means one or more of the following acts:

(g) The sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to:

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1. Solicit for or engage in prostitution;

2. Engage in a sexual performance, as defined by former s. 827.071 or s. 847.003 ~~chapter 827~~; or

3. Participate in the trade of human trafficking as provided in s. 787.06(3)(g).

Section 3. Paragraph (b) of subsection (4) of section 39.0132, Florida Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—  
(4)

(b) The department shall disclose to the school superintendent the presence of a ~~any~~ child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, former s. 827.071, s. 847.003, or s. 847.0133, s. 847.0135(5), or s. 847.0137, regardless of adjudication. An ~~Any~~ employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Paragraph (a) of subsection (3) of section 39.0139, Florida Statutes, is amended to read:

39.0139 Visitation or other contact; restrictions.—

(3) PRESUMPTION OF DETRIMENT.—

(a) A rebuttable presumption of detriment to a child is created when:

1. A court of competent jurisdiction has found probable

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cause exists that a parent or caregiver has sexually abused a child as defined in s. 39.01;

2. A parent or caregiver has been found guilty of, regardless of adjudication, or has entered a plea of guilty or nolo contendere to, charges under the following statutes or substantially similar statutes of other jurisdictions:

a. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order;

b. Section 794.011, relating to sexual battery;

c. Section 798.02, relating to lewd and lascivious behavior;

d. Chapter 800, relating to lewdness and indecent exposure;

e. Section 826.04, relating to incest; ~~or~~

f. Chapter 827, relating to the abuse of children; ~~or~~

g. Section 847.003, relating to sexual performance by a child;

h. Section 847.0135, excluding s. 847.0135(6), relating to computer pornography and child exploitation; or

i. Section 847.0137, relating to child pornography; or

3. A court of competent jurisdiction has determined a parent or caregiver to be a sexual predator as defined in s. 775.21 or a parent or caregiver has received a substantially similar designation under laws of another jurisdiction.

Section 5. Paragraph (b) of subsection (2) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(2)

(b) As used in this subsection, the term "criminal conduct" means:

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1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.

2. A child is known or suspected to have died as a result of abuse or neglect.

3. A child is known or suspected to be the victim of aggravated child abuse, as defined in s. 827.03.

4. A child is known or suspected to be the victim of sexual battery, as defined in s. 847.001 ~~827.071~~, or of sexual abuse, as defined in s. 39.01.

5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).

6. A child is known or suspected to be a victim of human trafficking, as provided in s. 787.06.

Section 6. Paragraph (a) of subsection (6) of section 39.509, Florida Statutes, is amended to read:

39.509 Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of the parent unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing. Any order for visitation or other contact must conform to the provisions of s. 39.0139.

(6) In determining whether grandparental visitation is not

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in the child's best interest, consideration may be given to the following:

(a) The finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; s. 826.04, relating to incest; ~~or~~ chapter 827, relating to the abuse of children; s. 847.003, relating to sexual performance by a child; s. 847.0135, excluding s. 847.0135(6), relating to computer pornography and child exploitation; or s. 847.0137, relating to child pornography.

Section 7. Paragraphs (b) and (c) of subsection (2) of section 90.404, Florida Statutes, are amended to read:

90.404 Character evidence; when admissible.—

(2) OTHER CRIMES, WRONGS, OR ACTS.—

(b)1. In a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant's commission of other crimes, wrongs, or acts of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant.

2. For the purposes of this paragraph, the term "child molestation" means conduct proscribed by s. 787.025(2)(c), s. 787.06(3)(g), former s. 787.06(3)(h), s. 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s. 800.04, former s. 827.071, s. 847.003, s. 847.0135(5), s. 847.0137(2), s. 847.0145, or s. 985.701(1) when committed

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against a person 16 years of age or younger.

(c)1. In a criminal case in which the defendant is charged with a sexual offense, evidence of the defendant's commission of other crimes, wrongs, or acts involving a sexual offense is admissible and may be considered for its bearing on any matter to which it is relevant.

2. For the purposes of this paragraph, the term "sexual offense" means conduct proscribed by s. 787.025(2)(c), s. 787.06(3)(b), (d), (f), or (g), former s. 787.06(3)(h), s. 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s. 825.1025(2)(b), former s. 827.071, s. 847.003, s. 847.0135(5), s. 847.0137(2), s. 847.0145, or s. 985.701(1).

Section 8. Subsections (2), (3), and (5) of section 92.56, Florida Statutes, are amended to read:

92.56 Judicial proceedings and court records involving sexual offenses and human trafficking.—

(2) A defendant charged with a crime described in s. 787.06(3)(a)1., (c)1., or (e)1.; or s. 787.06(3)(b), (d), (f), or (g); or chapter 794; or chapter 800; ~~or~~ or with child abuse or aggravated child abuse, ~~or sexual performance by a child as described in chapter 827; with sexual performance by a child as described in former s. 827.071; or with a sexual offense described in chapter 847,~~ may apply to the trial court for an order of disclosure of information in court records held confidential and exempt pursuant to s. 119.0714(1)(h) or maintained as confidential and exempt pursuant to court order under this section. Such identifying information concerning the victim may be released to the defendant or his or her attorney

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in order to prepare the defense. The confidential and exempt status of this information may not be construed to prevent the disclosure of the victim's identity to the defendant; however, the defendant may not disclose the victim's identity to any person other than the defendant's attorney or any other person directly involved in the preparation of the defense. A willful and knowing disclosure of the identity of the victim to any other person by the defendant constitutes contempt.

(3) The state may use a pseudonym instead of the victim's name to designate the victim of a crime described in s. 787.06(3)(a)1., (c)1., or (e)1.; in s. 787.06(3)(b), (d), (f), or (g); ~~or in~~ chapter 794; or chapter 800; ~~or~~ of child abuse or aggravated child abuse; or sexual performance by a child as described in chapter 827; of sexual performance by a child as described in former s. 827.071; ~~or of a sexual offense any crime involving the production, possession, or promotion of child pornography as described in chapter 847, in all court records and records of court proceedings, both civil and criminal.~~

(5) This section does not prohibit the publication or broadcast of the substance of trial testimony in a prosecution for an offense described in s. 787.06(3)(a)1., (c)1., or (e)1.; s. 787.06(3)(b), (d), (f), or (g); ~~chapter 794;~~ or chapter 800; ~~for,~~ ~~or~~ a crime of child abuse or aggravated child abuse, ~~or sexual performance by a child,~~ as described in chapter 827; for sexual performance by a child as described in former s. 827.071; or for a sexual offense described in chapter 847, but the publication or broadcast may not include an identifying photograph, an identifiable voice, or the name or address of the

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victim, unless the victim has consented in writing to the publication and filed such consent with the court or unless the court has declared such records not confidential and exempt as provided for in subsection (1).

Section 9. Subsection (1) of section 92.561, Florida Statutes, is amended to read:

92.561 Prohibition on reproduction of child pornography.—

(1) In a criminal proceeding, any property or material that portrays sexual performance by a child as defined in former s. 827.071 or s. 847.003, or constitutes child pornography as defined in s. 847.0137 ~~847.001~~, must remain secured or locked in the care, custody, and control of a law enforcement agency, the state attorney, or the court.

Section 10. Subsection (2) of section 92.565, Florida Statutes, is amended to read:

92.565 Admissibility of confession in sexual abuse cases.—

(2) In any criminal action in which the defendant is charged with a crime against a victim under s. 787.06(3), involving commercial sexual activity; s. 794.011; s. 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse; s. 827.04, involving sexual abuse; former s. 827.071; s. 847.003; ~~or s. 847.0135(5);~~ or s. 847.0137(2), or any other crime involving sexual abuse of another, or with any attempt, solicitation, or conspiracy to commit any of these crimes, the defendant's memorialized confession or admission is admissible during trial without the state having to prove a corpus delicti of the crime if the court finds in a hearing conducted outside the presence of the jury that the state is unable to show the existence of each element of the crime, and having so found, further finds

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that the defendant's confession or admission is trustworthy.  
Factors which may be relevant in determining whether the state  
is unable to show the existence of each element of the crime  
include, but are not limited to, the fact that, at the time the  
crime was committed, the victim was:

- (a) Physically helpless, mentally incapacitated, or  
mentally defective, as those terms are defined in s. 794.011;
- (b) Physically incapacitated due to age, infirmity, or any  
other cause; or
- (c) Less than 12 years of age.

Section 11. Paragraphs (ll) and (qq) of subsection (2) of  
section 435.04, Florida Statutes, are amended to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this  
section must ensure that no persons subject to the provisions of  
this section have been arrested for and are awaiting final  
disposition of, have been found guilty of, regardless of  
adjudication, or entered a plea of nolo contendere or guilty to,  
or have been adjudicated delinquent and the record has not been  
sealed or expunged for, any offense prohibited under any of the  
following provisions of state law or similar law of another  
jurisdiction:

(ll) ~~Former s. Section~~ 827.071, relating to sexual  
performance by a child.

(qq) Chapter 847, relating to obscenity and child  
exploitation ~~obscene literature~~.

Section 12. Paragraph (c) of subsection (4) of section  
435.07, Florida Statutes, is amended to read:

435.07 Exemptions from disqualification.—Unless otherwise

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provided by law, the provisions of this section apply to  
exemptions from disqualification for disqualifying offenses  
revealed pursuant to background screenings required under this  
chapter, regardless of whether those disqualifying offenses are  
listed in this chapter or other laws.

(4)

(c) Disqualification from employment under this chapter may  
not be removed from, and an exemption may not be granted to, any  
current or prospective child care personnel, as defined in s.  
402.302(3), and such a person is disqualified from employment as  
child care personnel, regardless of any previous exemptions from  
disqualification, if the person has been registered as a sex  
offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been  
arrested for and is awaiting final disposition of, has been  
convicted or found guilty of, or entered a plea of guilty or  
nolo contendere to, regardless of adjudication, or has been  
adjudicated delinquent and the record has not been sealed or  
expunged for, any offense prohibited under any of the following  
provisions of state law or a similar law of another  
jurisdiction:

1. A felony offense prohibited under any of the following  
statutes:

a. Chapter 741, relating to domestic violence.

b. Section 782.04, relating to murder.

c. Section 782.07, relating to manslaughter, aggravated  
manslaughter of an elderly person or disabled adult, aggravated  
manslaughter of a child, or aggravated manslaughter of an  
officer, a firefighter, an emergency medical technician, or a  
paramedic.

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- 581 d. Section 784.021, relating to aggravated assault.  
 582 e. Section 784.045, relating to aggravated battery.  
 583 f. Section 787.01, relating to kidnapping.  
 584 g. Section 787.025, relating to luring or enticing a child.  
 585 h. Section 787.04(2), relating to leading, taking,  
 586 enticing, or removing a minor beyond the state limits, or  
 587 concealing the location of a minor, with criminal intent pending  
 588 custody proceedings.  
 589 i. Section 787.04(3), relating to leading, taking,  
 590 enticing, or removing a minor beyond the state limits, or  
 591 concealing the location of a minor, with criminal intent pending  
 592 dependency proceedings or proceedings concerning alleged abuse  
 593 or neglect of a minor.  
 594 j. Section 794.011, relating to sexual battery.  
 595 k. Former s. 794.041, relating to sexual activity with or  
 596 solicitation of a child by a person in familial or custodial  
 597 authority.  
 598 l. Section 794.05, relating to unlawful sexual activity  
 599 with certain minors.  
 600 m. Section 794.08, relating to female genital mutilation.  
 601 n. Section 806.01, relating to arson.  
 602 o. Section 826.04, relating to incest.  
 603 p. Section 827.03, relating to child abuse, aggravated  
 604 child abuse, or neglect of a child.  
 605 q. Section 827.04, relating to contributing to the  
 606 delinquency or dependency of a child.  
 607 r. Former s. Section 827.071 or s. 847.003, relating to  
 608 sexual performance by a child.  
 609 s. Chapter 847, relating to obscenity and child

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- 610 exploitation ~~pornography~~.  
 611 t. Section 985.701, relating to sexual misconduct in  
 612 juvenile justice programs.  
 613 2. A misdemeanor offense prohibited under any of the  
 614 following statutes:  
 615 a. Section 784.03, relating to battery, if the victim of  
 616 the offense was a minor.  
 617 b. Section 787.025, relating to luring or enticing a child.  
 618 c. Chapter 847, relating to obscenity and child  
 619 exploitation ~~pornography~~.  
 620 3. A criminal act committed in another state or under  
 621 federal law which, if committed in this state, constitutes an  
 622 offense prohibited under any statute listed in subparagraph 1.  
 623 or subparagraph 2.  
 624 Section 13. Paragraphs (o) and (q) of subsection (5) of  
 625 section 456.074, Florida Statutes, are amended, paragraphs (r)  
 626 and (s) of that subsection are redesignated as paragraphs (s)  
 627 and (t), respectively, and a new paragraph (r) is added to that  
 628 subsection, to read:  
 629 456.074 Certain health care practitioners; immediate  
 630 suspension of license.—  
 631 (5) The department shall issue an emergency order  
 632 suspending the license of a massage therapist or establishment  
 633 as defined in chapter 480 upon receipt of information that the  
 634 massage therapist, a person with an ownership interest in the  
 635 establishment, or, for a corporation that has more than \$250,000  
 636 of business assets in this state, the owner, officer, or  
 637 individual directly involved in the management of the  
 638 establishment has been convicted or found guilty of, or has

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entered a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.07(2)(a) which is reclassified under s. 796.07(7) or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(o) ~~Former s. Section 827.071~~ or s. 847.003, relating to sexual performance by a child.

(q) Section 847.0135, relating to computer pornography and child exploitation.

(r) Section 847.0137, relating to child pornography.

Section 14. Paragraphs (o) and (q) of subsection (7) of section 480.041, Florida Statutes, are amended, paragraphs (r) and (s) of that subsection are redesignated as paragraphs (s) and (t), respectively, and a new paragraph (r) is added to that subsection, to read:

480.041 Massage therapists; qualifications; licensure; endorsement.—

(7) The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.07(2)(a) which is reclassified under s. 796.07(7) or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(o) ~~Former s. Section 827.071~~ or s. 847.003, relating to sexual performance by a child.

(q) Section 847.0135, relating to computer pornography and child exploitation.

(r) Section 847.0137, relating to child pornography.

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Section 15. Paragraphs (o) and (q) of subsection (8) of section 480.043, Florida Statutes, are amended, paragraphs (r) and (s) of that subsection are redesignated as paragraphs (s) and (t), respectively, and a new paragraph (r) is added to that subsection, to read:

480.043 Massage establishments; requisites; licensure; inspection.—

(8) The department shall deny an application for a new or renewal license if a person with an ownership interest in the establishment or, for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.07(2)(a) which is reclassified under s. 796.07(7) or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(o) ~~Former s. Section 827.071~~ or s. 847.003, relating to sexual performance by a child.

(q) Section 847.0135, relating to computer pornography and child exploitation.

(r) Section 847.0137, relating to child pornography.

Section 16. Paragraph (b) of subsection (3) of section 743.067, Florida Statutes, is amended to read:

743.067 Certified unaccompanied homeless youths.—

(3) A certified unaccompanied homeless youth may:

(b) Notwithstanding s. 394.4625(1), consent to medical, dental, psychological, substance abuse, and surgical diagnosis

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697 and treatment, including preventative care and care by a  
 698 facility licensed under chapter 394, chapter 395, or chapter 397  
 699 and any forensic medical examination for the purpose of  
 700 investigating any felony offense under chapter 784, chapter 787,  
 701 chapter 794, chapter 800, ~~or~~ chapter 827, s. 847.003, or s.  
 702 847.0137, for:  
 703 1. Himself or herself; or  
 704 2. His or her child, if the certified unaccompanied  
 705 homeless youth is unmarried, is the parent of the child, and has  
 706 actual custody of the child.  
 707 Section 17. Paragraph (a) of subsection (1) of section  
 708 772.102, Florida Statutes, is amended to read:  
 709 772.102 Definitions.—As used in this chapter, the term:  
 710 (1) "Criminal activity" means to commit, to attempt to  
 711 commit, to conspire to commit, or to solicit, coerce, or  
 712 intimidate another person to commit:  
 713 (a) Any crime that is chargeable by indictment or  
 714 information under the following provisions:  
 715 1. Section 210.18, relating to evasion of payment of  
 716 cigarette taxes.  
 717 2. Section 414.39, relating to public assistance fraud.  
 718 3. Section 440.105 or s. 440.106, relating to workers'  
 719 compensation.  
 720 4. Part IV of chapter 501, relating to telemarketing.  
 721 5. Chapter 517, relating to securities transactions.  
 722 6. Section 550.235 or s. 550.3551, relating to dogracing  
 723 and horseracing.  
 724 7. Chapter 550, relating to jai alai frontons.  
 725 8. Chapter 552, relating to the manufacture, distribution,

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726 and use of explosives.  
 727 9. Chapter 562, relating to beverage law enforcement.  
 728 10. Section 624.401, relating to transacting insurance  
 729 without a certificate of authority, s. 624.437(4)(c)1., relating  
 730 to operating an unauthorized multiple-employer welfare  
 731 arrangement, or s. 626.902(1)(b), relating to representing or  
 732 aiding an unauthorized insurer.  
 733 11. Chapter 687, relating to interest and usurious  
 734 practices.  
 735 12. Section 721.08, s. 721.09, or s. 721.13, relating to  
 736 real estate timeshare plans.  
 737 13. Chapter 782, relating to homicide.  
 738 14. Chapter 784, relating to assault and battery.  
 739 15. Chapter 787, relating to kidnapping or human  
 740 trafficking.  
 741 16. Chapter 790, relating to weapons and firearms.  
 742 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,  
 743 relating to prostitution.  
 744 18. Chapter 806, relating to arson.  
 745 19. Section 810.02(2)(c), relating to specified burglary of  
 746 a dwelling or structure.  
 747 20. Chapter 812, relating to theft, robbery, and related  
 748 crimes.  
 749 21. Chapter 815, relating to computer-related crimes.  
 750 22. Chapter 817, relating to fraudulent practices, false  
 751 pretenses, fraud generally, and credit card crimes.  
 752 23. ~~Former s. Section~~ 827.071, relating to commercial  
 753 sexual exploitation of children.  
 754 24. Chapter 831, relating to forgery and counterfeiting.



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755 25. Chapter 832, relating to issuance of worthless checks  
 756 and drafts.  
 757 26. Section 836.05, relating to extortion.  
 758 27. Chapter 837, relating to perjury.  
 759 28. Chapter 838, relating to bribery and misuse of public  
 760 office.  
 761 29. Chapter 843, relating to obstruction of justice.  
 762 30. Section 847.003, relating to sexual performance by a  
 763 child.  
 764 31.30- Section 847.011, s. 847.012, s. 847.013, s. 847.06,  
 765 or s. 847.07, relating to obscene literature and profanity.  
 766 32.31- Section 849.09, s. 849.14, s. 849.15, s. 849.23, or  
 767 s. 849.25, relating to gambling.  
 768 33.32- Chapter 893, relating to drug abuse prevention and  
 769 control.  
 770 34.33- Section 914.22 or s. 914.23, relating to witnesses,  
 771 victims, or informants.  
 772 35.34- Section 918.12 or s. 918.13, relating to tampering  
 773 with jurors and evidence.  
 774 Section 18. Paragraph (a) of subsection (9) of section  
 775 775.082, Florida Statutes, is amended to read:  
 776 775.082 Penalties; applicability of sentencing structures;  
 777 mandatory minimum sentences for certain reoffenders previously  
 778 released from prison.—  
 779 (9)(a)1. "Prison releasee reoffender" means any defendant  
 780 who commits, or attempts to commit:  
 781 a. Treason;  
 782 b. Murder;  
 783 c. Manslaughter;

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784 d. Sexual battery;  
 785 e. Carjacking;  
 786 f. Home-invasion robbery;  
 787 g. Robbery;  
 788 h. Arson;  
 789 i. Kidnapping;  
 790 j. Aggravated assault with a deadly weapon;  
 791 k. Aggravated battery;  
 792 l. Aggravated stalking;  
 793 m. Aircraft piracy;  
 794 n. Unlawful throwing, placing, or discharging of a  
 795 destructive device or bomb;  
 796 o. Any felony that involves the use or threat of physical  
 797 force or violence against an individual;  
 798 p. Armed burglary;  
 799 q. Burglary of a dwelling or burglary of an occupied  
 800 structure; or  
 801 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,  
 802 former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s.  
 803 847.0137(2);  
 804  
 805 within 3 years after being released from a state correctional  
 806 facility operated by the Department of Corrections or a private  
 807 vendor or within 3 years after being released from a  
 808 correctional institution of another state, the District of  
 809 Columbia, the United States, any possession or territory of the  
 810 United States, or any foreign jurisdiction, following  
 811 incarceration for an offense for which the sentence is  
 812 punishable by more than 1 year in this state.

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813 2. "Prison releasee reoffender" also means any defendant  
 814 who commits or attempts to commit any offense listed in sub-  
 815 subparagraphs (a)1.a.-r. while the defendant was serving a  
 816 prison sentence or on escape status from a state correctional  
 817 facility operated by the Department of Corrections or a private  
 818 vendor or while the defendant was on escape status from a  
 819 correctional institution of another state, the District of  
 820 Columbia, the United States, any possession or territory of the  
 821 United States, or any foreign jurisdiction, following  
 822 incarceration for an offense for which the sentence is  
 823 punishable by more than 1 year in this state.

824 3. If the state attorney determines that a defendant is a  
 825 prison releasee reoffender as defined in subparagraph 1., the  
 826 state attorney may seek to have the court sentence the defendant  
 827 as a prison releasee reoffender. Upon proof from the state  
 828 attorney that establishes by a preponderance of the evidence  
 829 that a defendant is a prison releasee reoffender as defined in  
 830 this section, such defendant is not eligible for sentencing  
 831 under the sentencing guidelines and must be sentenced as  
 832 follows:

833 a. For a felony punishable by life, by a term of  
 834 imprisonment for life;

835 b. For a felony of the first degree, by a term of  
 836 imprisonment of 30 years;

837 c. For a felony of the second degree, by a term of  
 838 imprisonment of 15 years; and

839 d. For a felony of the third degree, by a term of  
 840 imprisonment of 5 years.

841 Section 19. Paragraphs (b) and (f) of subsection (1) and

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842 subsection (2) of section 775.0847, Florida Statutes, are  
 843 amended, and paragraph (g) is added to subsection (1) of that  
 844 section, to read:

845 775.0847 Possession or promotion of certain visual  
 846 ~~depictions~~ ~~images~~ of child pornography; reclassification.-  
 847 (1) For purposes of this section:

848 (b) "Child pornography" has the same meaning as provided in  
 849 s. 847.0137 ~~means any image depicting a minor engaged in sexual~~  
 850 ~~conduct~~.

851 (f) "Sexual conduct" means actual or simulated sexual  
 852 intercourse, deviate sexual intercourse, sexual bestiality,  
 853 masturbation, or sadomasochistic abuse; actual or simulated lewd  
 854 exhibition of the genitals; actual physical contact with a  
 855 person's clothed or unclothed genitals, pubic area, buttocks,  
 856 or, if such person is a female, breast with the intent to arouse  
 857 or gratify the sexual desire of either party; or any act or  
 858 conduct which constitutes sexual battery or simulates that  
 859 sexual battery is being or will be committed. A mother's  
 860 breastfeeding of her baby does not under any circumstance  
 861 constitute "sexual conduct."

862 (g) "Visual depiction" has the same meaning as provided in  
 863 s. 847.0137.

864 (2) A violation of former s. 827.071, s. 847.003, s.  
 865 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to  
 866 the next higher degree as provided in subsection (3) if:

867 (a) The offender possesses 10 or more visual depictions  
 868 ~~images~~ of any form of child pornography regardless of content;  
 869 and

870 (b) The content of at least one visual depiction ~~image~~

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871 contains one or more of the following:

- 872 1. A child who is younger than the age of 5.  
 873 2. Sadomasochistic abuse involving a child.  
 874 3. Sexual battery involving a child.  
 875 4. Sexual bestiality involving a child.  
 876 5. Any movie involving a child, regardless of length and  
 877 regardless of whether the movie contains sound.

878 Section 20. Subsection (1) of section 775.0877, Florida  
 879 Statutes, is amended to read:

880 775.0877 Criminal transmission of HIV; procedures;  
 881 penalties.—

882 (1) In any case in which a person has been convicted of or  
 883 has pled nolo contendere or guilty to, regardless of whether  
 884 adjudication is withheld, any of the following offenses, or the  
 885 attempt thereof, which offense or attempted offense involves the  
 886 transmission of body fluids from one person to another:

- 887 (a) Section 794.011, relating to sexual battery;  
 888 (b) Section 826.04, relating to incest;  
 889 (c) Section 800.04, relating to lewd or lascivious offenses  
 890 committed upon or in the presence of persons less than 16 years  
 891 of age;  
 892 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
 893 relating to assault;  
 894 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
 895 relating to aggravated assault;  
 896 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
 897 relating to battery;  
 898 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
 899 relating to aggravated battery;

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900 (h) Section 827.03(2)(c), relating to child abuse;

901 (i) Section 827.03(2)(a), relating to aggravated child  
 902 abuse;

903 (j) Section 825.102(1), relating to abuse of an elderly  
 904 person or disabled adult;

905 (k) Section 825.102(2), relating to aggravated abuse of an  
 906 elderly person or disabled adult;

907 (l) Former s. Section 827.071 or s. 847.003, relating to  
 908 sexual performance by a child person less than 18 years of age;

909 (m) Sections 796.07 and 796.08, relating to prostitution;

910 (n) Section 381.0041(11)(b), relating to donation of blood,  
 911 plasma, organs, skin, or other human tissue; or

912 (o) Sections 787.06(3)(b), (d), (f), and (g), relating to  
 913 human trafficking,

914  
 915 the court shall order the offender to undergo HIV testing, to be  
 916 performed under the direction of the Department of Health in  
 917 accordance with s. 381.004, unless the offender has undergone  
 918 HIV testing voluntarily or pursuant to procedures established in  
 919 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or  
 920 rule providing for HIV testing of criminal offenders or inmates,  
 921 subsequent to her or his arrest for an offense enumerated in  
 922 paragraphs (a)-(n) for which she or he was convicted or to which  
 923 she or he pled nolo contendere or guilty. The results of an HIV  
 924 test performed on an offender pursuant to this subsection are  
 925 not admissible in any criminal proceeding arising out of the  
 926 alleged offense.

927 Section 21. Paragraph (a) of subsection (4) and paragraph  
 928 (b) of subsection (10) of section 775.21, Florida Statutes, are

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amended to read:

775.21 The Florida Sexual Predators Act.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; former s. 827.071; s. 847.003; s. 847.0135, excluding s. 847.0135(6); s. 847.0137(2); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.

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787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; former s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137(2); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(10) PENALTIES.—

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; former s. 827.071; s. 847.003; s. 847.0133; s. 847.0135(5); s. 847.0137(2); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility,

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987 park, playground, or other place where children regularly  
 988 congregate, commits a felony of the third degree, punishable as  
 989 provided in s. 775.082, s. 775.083, or s. 775.084.

990 Section 22. Subsection (2) and paragraphs (a) and (c) of  
 991 subsection (3) of section 775.215, Florida Statutes, are amended  
 992 to read:

993 775.215 Residency restriction for persons convicted of  
 994 certain sex offenses.—

995 (2) (a) A person who has been convicted of a violation of s.  
 996 794.011, s. 800.04, former s. 827.071, s. 847.003, s.  
 997 847.0135(5), s. 847.0137(2), or s. 847.0145, regardless of  
 998 whether adjudication has been withheld, in which the victim of  
 999 the offense was less than 16 years of age, may not reside within  
 1000 1,000 feet of any school, child care facility, park, or  
 1001 playground. However, a person does not violate this subsection  
 1002 and may not be forced to relocate if he or she is living in a  
 1003 residence that meets the requirements of this subsection and a  
 1004 school, child care facility, park, or playground is subsequently  
 1005 established within 1,000 feet of his or her residence.

1006 (b) A person who violates this subsection and whose  
 1007 conviction under s. 794.011, s. 800.04, former s. 827.071, s.  
 1008 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 was  
 1009 classified as a felony of the first degree or higher commits a  
 1010 felony of the third degree, punishable as provided in s. 775.082  
 1011 or s. 775.083. A person who violates this subsection and whose  
 1012 conviction under s. 794.011, s. 800.04, former s. 827.071, s.  
 1013 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 was  
 1014 classified as a felony of the second or third degree commits a  
 1015 misdemeanor of the first degree, punishable as provided in s.

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1016 775.082 or s. 775.083.

1017 (c) This subsection applies to any person convicted of a  
 1018 violation of s. 794.011, s. 800.04, former s. 827.071, s.  
 1019 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 for  
 1020 offenses that occur on or after October 1, 2004, excluding  
 1021 persons who have been removed from the requirement to register  
 1022 as a sexual offender or sexual predator pursuant to s.  
 1023 943.04354.

1024 (3) (a) A person who has been convicted of an offense in  
 1025 another jurisdiction that is similar to a violation of s.  
 1026 794.011, s. 800.04, former s. 827.071, s. 847.003, s.  
 1027 847.0135(5), s. 847.0137(2), or s. 847.0145, regardless of  
 1028 whether adjudication has been withheld, in which the victim of  
 1029 the offense was less than 16 years of age, may not reside within  
 1030 1,000 feet of any school, child care facility, park, or  
 1031 playground. However, a person does not violate this subsection  
 1032 and may not be forced to relocate if he or she is living in a  
 1033 residence that meets the requirements of this subsection and a  
 1034 school, child care facility, park, or playground is subsequently  
 1035 established within 1,000 feet of his or her residence.

1036 (c) This subsection applies to any person convicted of an  
 1037 offense in another jurisdiction that is similar to a violation  
 1038 of s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.  
 1039 847.0135(5), s. 847.0137(2), or s. 847.0145 if such offense  
 1040 occurred on or after May 26, 2010, excluding persons who have  
 1041 been removed from the requirement to register as a sexual  
 1042 offender or sexual predator pursuant to s. 943.04354.

1043 Section 23. Paragraph (c) of subsection (1) of section  
 1044 784.046, Florida Statutes, is amended to read:

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784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.—

(1) As used in this section, the term:

(c) "Sexual violence" means any one incident of:

1. Sexual battery, as defined in chapter 794;

2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age;

3. Luring or enticing a child, as described in chapter 787;

4. Sexual performance by a child, as described in former s. 827.071 or s. 847.003 ~~chapter 827~~; or

5. Any other forcible felony wherein a sexual act is committed or attempted,

regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

Section 24. Subsection (2) of section 794.0115, Florida Statutes, is amended to read:

794.0115 Dangerous sexual felony offender; mandatory sentencing.—

(2) Any person who is convicted of a violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2), (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; or of any similar offense under a former designation, which offense the person committed when he or she was 18 years of age or older, and the person:

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(a) Caused serious personal injury to the victim as a result of the commission of the offense;

(b) Used or threatened to use a deadly weapon during the commission of the offense;

(c) Victimized more than one person during the course of the criminal episode applicable to the offense;

(d) Committed the offense while under the jurisdiction of a court for a felony offense under the laws of this state, for an offense that is a felony in another jurisdiction, or for an offense that would be a felony if that offense were committed in this state; or

(e) Has previously been convicted of a violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2), (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; of any offense under a former statutory designation which is similar in elements to an offense described in this paragraph; or of any offense that is a felony in another jurisdiction, or would be a felony if that offense were committed in this state, and which is similar in elements to an offense described in this paragraph,

is a dangerous sexual felony offender, who must be sentenced to a mandatory minimum term of 25 years imprisonment up to, and including, life imprisonment. If the offense described in this subsection was committed on or after October 1, 2014, a person who qualifies as a dangerous sexual felony offender pursuant to this subsection must be sentenced to a mandatory minimum term of 50 years imprisonment up to, and including, life imprisonment.

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1103 Section 25. Subsection (1) of section 794.024, Florida  
 1104 Statutes, is amended to read:  
 1105 794.024 Unlawful to disclose identifying information.—  
 1106 (1) A public employee or officer who has access to the  
 1107 photograph, name, or address of a person who is alleged to be  
 1108 the victim of an offense described in this chapter, chapter 800,  
 1109 s. 827.03, s. 827.04, or former s. 827.071, or of a sexual  
 1110 offense described in chapter 847, may not willfully and  
 1111 knowingly disclose it to a person who is not assisting in the  
 1112 investigation or prosecution of the alleged offense or to any  
 1113 person other than the defendant, the defendant's attorney, a  
 1114 person specified in an order entered by the court having  
 1115 jurisdiction of the alleged offense, or organizations authorized  
 1116 to receive such information made exempt by s. 119.071(2)(h), or  
 1117 to a rape crisis center or sexual assault counselor, as defined  
 1118 in s. 90.5035(1)(b), who will be offering services to the  
 1119 victim.  
 1120 Section 26. Subsection (1) of section 794.056, Florida  
 1121 Statutes, is amended to read:  
 1122 794.056 Rape Crisis Program Trust Fund.—  
 1123 (1) The Rape Crisis Program Trust Fund is created within  
 1124 the Department of Health for the purpose of providing funds for  
 1125 rape crisis centers in this state. Trust fund moneys shall be  
 1126 used exclusively for the purpose of providing services for  
 1127 victims of sexual assault. Funds credited to the trust fund  
 1128 consist of those funds collected as an additional court  
 1129 assessment in each case in which a defendant pleads guilty or  
 1130 nolo contendere to, or is found guilty of, regardless of  
 1131 adjudication, an offense provided in s. 775.21(6) and (10)(a),

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1132 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
 1133 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
 1134 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
 1135 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
 1136 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
 1137 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
 1138 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
 1139 825.1025; former s. 827.071; s. 836.10; s. 847.003; s. 847.0133;  
 1140 s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c),  
 1141 (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1). Funds  
 1142 credited to the trust fund also shall include revenues provided  
 1143 by law, moneys appropriated by the Legislature, and grants from  
 1144 public or private entities.  
 1145 Section 27. Section 794.10, Florida Statutes, is created to  
 1146 read:  
 1147 794.10 Investigative subpoenas in certain cases involving  
 1148 child victims.—  
 1149 (1) DEFINITIONS.—As used in this section, the term:  
 1150 (a) "Child" means a person who is less than 18 years of  
 1151 age.  
 1152 (b) "Child sexual offender" means a person who is required  
 1153 to register as a sexual predator under s. 775.21 or as a sexual  
 1154 offender under s. 943.0435 if at least one of the offenses that  
 1155 qualified the person for such registration requirement involved  
 1156 a victim who was a child at the time of the offense.  
 1157 (c) "Criminal justice agency" means a law enforcement  
 1158 agency, court, or prosecutor in this state.  
 1159 (d) "Sexual exploitation or abuse of a child" means a  
 1160 criminal offense based on any conduct described in s. 39.01(71).

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1161 (2) AUTHORIZATION.—  
 1162 (a) In any investigation of:  
 1163 1. An offense involving the sexual exploitation or abuse  
 1164 of a child;  
 1165 2. A sexual offense allegedly committed by a child sexual  
 1166 offender who has not registered as required under s. 775.21 or  
 1167 s. 943.0435; or  
 1168 3. An offense under chapter 847 involving a child victim  
 1169 which is not otherwise included in subparagraph 1. or  
 1170 subparagraph 2.,  
 1171 a criminal justice agency may issue in writing and cause to be  
 1172 served a subpoena requiring the production of any record,  
 1173 object, or other information or testimony described in paragraph  
 1174 (b).  
 1175 (b) A subpoena issued under this section may require:  
 1176 1. The production of any record, object, or other  
 1177 information relevant to the investigation.  
 1178 2. Testimony by the custodian of the record, object, or  
 1179 other information concerning its production and authenticity.  
 1180 (3) CONTENTS OF SUBPOENAS.—A subpoena issued under this  
 1181 section shall describe any record, object, or other information  
 1182 required to be produced and prescribe a reasonable return date  
 1183 within which the record, object, or other information can be  
 1184 assembled and made available.  
 1185 (4) WITNESS EXPENSES.—Witnesses subpoenaed under this  
 1186 section shall be reimbursed for fees and mileage at the same  
 1187 rate at which witnesses in the courts of this state are  
 1188 reimbursed.  
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1190 (5) PETITIONS BEFORE RETURN DATE.—At any time before the  
 1191 return date specified in the subpoena, the recipient of the  
 1192 subpoena may, in the circuit court of the county in which the  
 1193 recipient conducts business or resides, petition for an order  
 1194 modifying or setting aside the subpoena or the requirement for  
 1195 nondisclosure of certain information under subsection (6).  
 1196 (6) NONDISCLOSURE.—  
 1197 (a)1. If a subpoena issued under this section is  
 1198 accompanied by a written certification under subparagraph 2. and  
 1199 notice under paragraph (c), the recipient of the subpoena, and a  
 1200 person to whom information is disclosed under subparagraph  
 1201 (b)1., may not disclose, for a period of 180 days, to any person  
 1202 the existence or contents of the subpoena.  
 1203 2. The requirement in subparagraph 1. applies if the  
 1204 criminal justice agency that issued the subpoena certifies in  
 1205 writing that the disclosure may result in one or more of the  
 1206 following circumstances:  
 1207 a. Endangering a person's life or physical safety;  
 1208 b. Encouraging a person's flight from prosecution;  
 1209 c. Destruction of or tampering with evidence;  
 1210 d. Intimidation of potential witnesses; or  
 1211 e. Otherwise seriously jeopardizing an investigation or  
 1212 unduly delaying a trial.  
 1213 (b)1. A recipient of a subpoena may disclose information  
 1214 subject to the nondisclosure requirement in subparagraph (a)1.  
 1215 to:  
 1216 a. A person to whom disclosure is necessary in order to  
 1217 comply with the subpoena;  
 1218 b. An attorney in order to obtain legal advice or



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1219 assistance regarding the subpoena; or

1220 c. Any other person as authorized by the criminal justice  
1221 agency that issued the subpoena.

1222 2. A recipient of a subpoena who discloses to a person  
1223 described in subparagraph 1. information subject to the  
1224 nondisclosure requirement shall notify such person of the  
1225 nondisclosure requirement by providing the person with a copy of  
1226 the subpoena. A person to whom information is disclosed under  
1227 subparagraph 1. is subject to the nondisclosure requirement in  
1228 subparagraph (a)1.

1229 3. At the request of the criminal justice agency that  
1230 issued the subpoena, a recipient of a subpoena who discloses or  
1231 intends to disclose to a person described in sub-subparagraph  
1232 1.a. or sub-subparagraph 1.b. information subject to the  
1233 nondisclosure requirement shall provide to the criminal justice  
1234 agency the identity of the person to whom such disclosure was or  
1235 will be made.

1236 (c)1. The nondisclosure requirement imposed under paragraph  
1237 (a) is subject to judicial review under subsection (13).

1238 2. A subpoena issued under this section, in connection with  
1239 which a nondisclosure requirement under paragraph (a) is  
1240 imposed, shall include:

1241 a. Notice of the nondisclosure requirement and the  
1242 availability of judicial review.

1243 b. Notice that a violation of the nondisclosure requirement  
1244 is subject to the penalties provided in paragraph (11)(b).

1245 (d) The nondisclosure requirement in paragraph (a) may be  
1246 extended under subsection (13).

1247 (7) EXCEPTIONS TO PRODUCTION.—A subpoena issued under this

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1248 section may not require the production of anything that is  
1249 protected from production under the standards applicable to a  
1250 subpoena duces tecum issued by a court of this state.

1251 (8) RETURN OF RECORDS AND OBJECTS.—If a case or proceeding  
1252 resulting from the production of any record, object, or other  
1253 information under this section does not arise within a  
1254 reasonable period of time after such production, the criminal  
1255 justice agency to which it was delivered shall, upon written  
1256 demand made by the person producing it, return the record,  
1257 object, or other information to such person, unless the record  
1258 was a copy and not an original.

1259 (9) TIME OF PRODUCTION.—A subpoena issued under this  
1260 section may require production of any record, object, or other  
1261 information as soon as possible, but the recipient of the  
1262 subpoena must have at least 24 hours after he or she is served  
1263 to produce the record, object, or other information.

1264 (10) SERVICE.—A subpoena issued under this section may be  
1265 served as provided in chapter 48.

1266 (11) ENFORCEMENT.—

1267 (a) If a recipient of a subpoena under this section refuses  
1268 to comply with the subpoena, the criminal justice agency may  
1269 invoke the aid of any circuit court described in subsection (5)  
1270 or of the circuit court of the county in which the authorized  
1271 investigation is being conducted. Such court may issue an order  
1272 requiring the recipient of a subpoena to appear before the  
1273 criminal justice agency that issued the subpoena to produce any  
1274 record, object, or other information or to testify concerning  
1275 the production and authenticity of the record, object, or other  
1276 information. Any failure to comply with an order under this

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1277 paragraph may be punished by the court as a contempt of court.  
 1278 All process in any such case may be served in any county in  
 1279 which such person may be found.

1280 (b) A recipient of a subpoena, or a person to whom  
 1281 information is disclosed under subparagraph(6)(b)1., who  
 1282 knowingly violates:

1283 1. A nondisclosure requirement imposed under paragraph  
 1284 (6)(a) commits a noncriminal violation punishable as provided in  
 1285 s. 775.083. Each person to whom a disclosure is made in  
 1286 violation of this subparagraph constitutes a separate violation  
 1287 subject to a separate fine.

1288 2. A nondisclosure requirement ordered by the court under  
 1289 this section may be held in contempt of court.

1290 (12) IMMUNITY.—Notwithstanding any other law, any person,  
 1291 including any officer, agent, or employee, receiving a subpoena  
 1292 under this section who complies in good faith with the subpoena  
 1293 and produces or discloses any record, object, or other  
 1294 information sought is not liable in any court in this state to  
 1295 any customer or other person for such production or disclosure.

1296 (13) JUDICIAL REVIEW OF NONDISCLOSURE REQUIREMENT.—

1297 (a)1.a. If a recipient of a subpoena under this section, or  
 1298 a person to whom information is disclosed under subparagraph  
 1299 (6)(b)1., wishes to have a court review a nondisclosure  
 1300 requirement under subsection (6), such recipient or person may  
 1301 notify the criminal justice agency issuing the subpoena or file  
 1302 a petition for judicial review in the circuit court described in  
 1303 subsection (5).

1304 b. Within 30 days after the date on which the criminal  
 1305 justice agency receives the notification under sub-subparagraph

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1306 a., the criminal justice agency shall apply for an order  
 1307 prohibiting the disclosure of the existence or contents of the  
 1308 subpoena. An application under this sub-subparagraph may be  
 1309 filed in the circuit court described in subsection (5) or in the  
 1310 circuit court of the county in which the authorized  
 1311 investigation is being conducted.

1312 c. The nondisclosure requirement shall remain in effect  
 1313 during the pendency of proceedings relating to the requirement.

1314 d. A circuit court that receives a petition under sub-  
 1315 paragraph a. or an application under sub-subparagraph b.  
 1316 shall rule on such petition or application as expeditiously as  
 1317 possible.

1318 2. An application for a nondisclosure order or extension  
 1319 thereof or a response to a petition filed under this paragraph  
 1320 must include a certification from the criminal justice agency  
 1321 that issued the subpoena indicating that the disclosure of such  
 1322 information may result in one or more of the circumstances  
 1323 described in subparagraph (6)(a)2.

1324 3. A circuit court shall issue a nondisclosure order or  
 1325 extension thereof under this paragraph if it determines that  
 1326 there is reason to believe that disclosure of such information  
 1327 may result in one or more of the circumstances described in  
 1328 subparagraph (6)(a)2.

1329 4. Upon a showing that any of the circumstances described  
 1330 in subparagraph (6)(a)2. continue to exist, a circuit court may  
 1331 issue an ex parte order extending a nondisclosure order imposed  
 1332 under this section for an additional 180 days. There is no limit  
 1333 on the number of nondisclosure extensions that may be granted  
 1334 under this subparagraph.

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(b) In all proceedings under this subsection, subject to any right to an open hearing in a contempt proceeding, a circuit court must close any hearing to the extent necessary to prevent the unauthorized disclosure of a request for records, objects, or other information made to any person under this section. Petitions, filings, records, orders, certifications, and subpoenas must also be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of any information under this section.

Section 28. Section 796.001, Florida Statutes, is amended to read:

796.001 Offenses by adults involving minors; intent.—It is the intent of the Legislature that adults who involve minors in any behavior prohibited under this chapter be prosecuted under other laws of this state, such as, but not limited to, s. 787.06, chapter 794, chapter 800, s. 810.145, former s. 827.071 chapter 827, and chapter 847. The Legislature finds that prosecution of such adults under this chapter is inappropriate since a minor is unable to consent to such behavior.

Section 29. Section 827.071, Florida Statutes, is repealed.

Section 30. Subsections (3), (8), and (16) of section 847.001, Florida Statutes, are amended to read:

847.001 Definitions.—As used in this chapter, the term:

(3) "Child pornography" has the same meaning as provided in s. 847.0137 ~~means any image depicting a minor engaged in sexual conduct.~~

(8) "Minor" or "child" means a any person under the age of 18 years.

(16) "Sexual conduct" means actual or simulated sexual

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intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

Section 31. Section 847.003, Florida Statutes, is created to read:

847.003 Sexual performance by a child; penalties.—

(1) As used in this section, the term:

(a) "Performance" means a play, motion picture, photograph, or dance or other visual representation exhibited before an audience.

(b) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

(c) "Sexual performance" means a performance or part thereof which includes sexual conduct by a child.

(2) A person who, knowing the character and content thereof, employs, authorizes, or induces a child to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance commits the offense of use of a child in a sexual performance, a felony of the second degree,

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punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who, knowing the character and content thereof, produces, directs, or promotes a performance that includes sexual conduct by a child commits the offense of promoting a sexual performance by a child, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 32. Subsections (2), (3), and (4) of section 847.0135, Florida Statutes, are amended to read:

847.0135 Computer pornography; child exploitation ~~prohibited computer usage; traveling to meet minor~~; penalties.—

(2) COMPUTER PORNOGRAPHY.—A person who:

(a) Knowingly compiles, enters into, or transmits by use of computer;

(b) Makes, prints, publishes, or reproduces by other computerized means;

(c) Knowingly causes or allows to be entered into or transmitted by use of computer; or

(d) Buys, sells, receives, exchanges, or disseminates,

a ~~any~~ notice, a statement, or an advertisement of a ~~any~~ minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with a ~~any~~ minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense

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under this section shall not constitute a defense to a prosecution under this section.

(3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES PROHIBITED.—A ~~Any~~ person who knowingly uses a computer online service, Internet service, local bulletin board service, or ~~any~~ other device capable of electronic data storage or transmission to:

(a) Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit an ~~any~~ illegal act described in chapter 794, chapter 800, former s. 827.071 ~~or chapter 827~~, s. 847.003, or s. 847.0137, or to otherwise engage in ~~any~~ unlawful sexual conduct with a child or with another person believed by the person to be a child; or

(b) Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in an ~~any~~ act described in chapter 794, chapter 800, former s. 827.071 ~~or chapter 827~~, s. 847.003, or s. 847.0137, or to otherwise engage in ~~any~~ sexual conduct,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A ~~Any~~ person who, in violating this subsection, misrepresents his or her age, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each separate use of a computer online service, Internet service, local bulletin board service, or ~~any~~ other device capable of electronic data storage

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or transmission wherein an offense described in this section is committed may be charged as a separate offense.

(4) TRAVELING TO MEET A MINOR.—~~A~~ Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in an ~~any~~ illegal act described in chapter 794, chapter 800, former s. 827.071 or chapter 827, s. 847.003, or s. 847.0137, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or ~~any~~ other device capable of electronic data storage or transmission to:

(a) Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in an ~~any~~ illegal act described in chapter 794, chapter 800, former s. 827.071 or chapter 827, s. 847.003, or s. 847.0137, or to otherwise engage in other unlawful sexual conduct with a child; or

(b) Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in an ~~any~~ act described in chapter 794, chapter 800, former s. 827.071 or chapter 827, s. 847.003, or s. 847.0137, or to otherwise engage in ~~any~~ sexual conduct,

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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Section 33. Subsection (1) of section 847.01357, Florida Statutes, is amended to read:

847.01357 Exploited children's civil remedy.—

(1) ~~A~~ Any person who, while under the age of 18, was a victim of a sexual abuse crime listed in chapter 794, chapter 800, former s. 827.071 chapter 827, or chapter 847, where any portion of such abuse was used in the production of child pornography, and who suffers personal or psychological injury as a result of the production, promotion, or possession of such images or movies, may bring an action in an appropriate state court against the producer, promoter, or possessor of such images or movies, regardless of whether the victim is now an adult. In any action brought under this section, a prevailing plaintiff shall recover the actual damages such person sustained and the cost of the suit, including reasonable attorney ~~attorney's~~ fees. A ~~Any~~ victim who is awarded damages under this section shall be deemed to have sustained damages of at least \$150,000.

Section 34. Section 847.0137, Florida Statutes, is amended to read:

847.0137 Child pornography; Transmission of pornography by electronic device or equipment prohibited acts; penalties.—

(1) For purposes of this section, the term:

(a) "Child pornography" means a visual depiction of sexual conduct, in which:

1. The production of such visual depiction involves the use of a minor engaging in sexual conduct; or

2. Such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in

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sexual conduct.

(b) "Identifiable minor" means a person who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature and:

1. Who was a minor at the time the visual depiction was created, adapted, or modified; or

2. Whose image as a minor was used in creating, adapting, or modifying the visual depiction.

This paragraph does not require proof of the actual identity of the identifiable minor.

(c) "Intentionally view" means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing that a person deliberately, purposefully, and voluntarily viewed more than one visual depiction over any period of time.

(d) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same. "Minor" means any person less than 18 years of age.

(e) (b) "Transmit" means the act of sending and causing to be delivered, including the act of providing access for receiving and causing to be delivered, a visual depiction any image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet or an interconnected network, by use of any electronic equipment or other device.

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(f) "Visual depiction" includes, but is not limited to, a photograph, picture, image, motion picture, film, video, representation, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means. The term also includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data that is capable of conversion into a visual image that has been transmitted by any means, whether stored in a permanent or nonpermanent format.

(2) (a) It is unlawful for a person to possess, with the intent to promote, child pornography. The possession of three or more visual depictions of child pornography is prima facie evidence of an intent to promote. A person who violates this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) It is unlawful for a person to knowingly possess, control, or intentionally view child pornography. The possession, control, or intentional viewing of each visual depiction of child pornography is a separate offense. If the visual depiction includes sexual conduct by more than one minor, each minor in each visual depiction that is knowingly possessed, controlled, or intentionally viewed is a separate offense. A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) This subsection does not apply to child pornography possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

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(d) Prosecution of a person for an offense under this subsection does not prohibit prosecution of that person in this state for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or for any other crime punishing the sexual performance or sexual exploitation of children.

(3) (a) ~~(2)~~ Notwithstanding ss. 847.012 and 847.0133, a any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, ~~as defined in s. 847.001,~~ to another person in this state or in another jurisdiction commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) ~~(3)~~ Notwithstanding ss. 847.012 and 847.0133, a any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, ~~as defined in s. 847.001,~~ to another any person in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) ~~(4)~~ This subsection does ~~section shall not be construed to prohibit prosecution of a person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this subsection section, for the transmission of child pornography, as defined in s. 847.001,~~ to another any person in this state.

(d) ~~(5)~~ A person is subject to prosecution in this state pursuant to chapter 910 for any act or conduct proscribed by this subsection section, including a person in a jurisdiction other than this state, if the act or conduct violates paragraph

(b) ~~subsection (3).~~

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(e) This subsection does ~~The provisions of this section do~~ not apply to subscription-based transmissions such as list servers.

Section 35. Subsection (1) of section 856.022, Florida Statutes, is amended to read:

856.022 Loitering or prowling by certain offenders in close proximity to children; penalty.—

(1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; former s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, if the person has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection and a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding.

Section 36. Paragraph (a) of subsection (8) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

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1625 (8) "Racketeering activity" means to commit, to attempt to  
 1626 commit, to conspire to commit, or to solicit, coerce, or  
 1627 intimidate another person to commit:  
 1628 (a) Any crime that is chargeable by petition, indictment,  
 1629 or information under the following provisions of the Florida  
 1630 Statutes:  
 1631 1. Section 210.18, relating to evasion of payment of  
 1632 cigarette taxes.  
 1633 2. Section 316.1935, relating to fleeing or attempting to  
 1634 elude a law enforcement officer and aggravated fleeing or  
 1635 eluding.  
 1636 3. Section 403.727(3)(b), relating to environmental  
 1637 control.  
 1638 4. Section 409.920 or s. 409.9201, relating to Medicaid  
 1639 fraud.  
 1640 5. Section 414.39, relating to public assistance fraud.  
 1641 6. Section 440.105 or s. 440.106, relating to workers'  
 1642 compensation.  
 1643 7. Section 443.071(4), relating to creation of a fictitious  
 1644 employer scheme to commit reemployment assistance fraud.  
 1645 8. Section 465.0161, relating to distribution of medicinal  
 1646 drugs without a permit as an Internet pharmacy.  
 1647 9. Section 499.0051, relating to crimes involving  
 1648 contraband, adulterated, or misbranded drugs.  
 1649 10. Part IV of chapter 501, relating to telemarketing.  
 1650 11. Chapter 517, relating to sale of securities and  
 1651 investor protection.  
 1652 12. Section 550.235 or s. 550.3551, relating to dogracing  
 1653 and horseracing.

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1654 13. Chapter 550, relating to jai alai frontons.  
 1655 14. Section 551.109, relating to slot machine gaming.  
 1656 15. Chapter 552, relating to the manufacture, distribution,  
 1657 and use of explosives.  
 1658 16. Chapter 560, relating to money transmitters, if the  
 1659 violation is punishable as a felony.  
 1660 17. Chapter 562, relating to beverage law enforcement.  
 1661 18. Section 624.401, relating to transacting insurance  
 1662 without a certificate of authority, s. 624.437(4)(c)1., relating  
 1663 to operating an unauthorized multiple-employer welfare  
 1664 arrangement, or s. 626.902(1)(b), relating to representing or  
 1665 aiding an unauthorized insurer.  
 1666 19. Section 655.50, relating to reports of currency  
 1667 transactions, when such violation is punishable as a felony.  
 1668 20. Chapter 687, relating to interest and usurious  
 1669 practices.  
 1670 21. Section 721.08, s. 721.09, or s. 721.13, relating to  
 1671 real estate timeshare plans.  
 1672 22. Section 775.13(5)(b), relating to registration of  
 1673 persons found to have committed any offense for the purpose of  
 1674 benefiting, promoting, or furthering the interests of a criminal  
 1675 gang.  
 1676 23. Section 777.03, relating to commission of crimes by  
 1677 accessories after the fact.  
 1678 24. Chapter 782, relating to homicide.  
 1679 25. Chapter 784, relating to assault and battery.  
 1680 26. Chapter 787, relating to kidnapping or human  
 1681 trafficking.  
 1682 27. Chapter 790, relating to weapons and firearms.

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1683 28. Chapter 794, relating to sexual battery, but only if  
 1684 such crime was committed with the intent to benefit, promote, or  
 1685 further the interests of a criminal gang, or for the purpose of  
 1686 increasing a criminal gang member's own standing or position  
 1687 within a criminal gang.  
 1688 29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
 1689 796.05, or s. 796.07, relating to prostitution.  
 1690 30. Chapter 806, relating to arson and criminal mischief.  
 1691 31. Chapter 810, relating to burglary and trespass.  
 1692 32. Chapter 812, relating to theft, robbery, and related  
 1693 crimes.  
 1694 33. Chapter 815, relating to computer-related crimes.  
 1695 34. Chapter 817, relating to fraudulent practices, false  
 1696 pretenses, fraud generally, credit card crimes, and patient  
 1697 brokering.  
 1698 35. Chapter 825, relating to abuse, neglect, or  
 1699 exploitation of an elderly person or disabled adult.  
 1700 36. Former s. Section 827.071, relating to commercial  
 1701 sexual exploitation of children.  
 1702 37. Section 828.122, relating to fighting or baiting  
 1703 animals.  
 1704 38. Chapter 831, relating to forgery and counterfeiting.  
 1705 39. Chapter 832, relating to issuance of worthless checks  
 1706 and drafts.  
 1707 40. Section 836.05, relating to extortion.  
 1708 41. Chapter 837, relating to perjury.  
 1709 42. Chapter 838, relating to bribery and misuse of public  
 1710 office.  
 1711 43. Chapter 843, relating to obstruction of justice.

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1712 44. Section 847.003, relating to sexual performance by a  
 1713 child.  
 1714 45.44. Section 847.011, s. 847.012, s. 847.013, s. 847.06,  
 1715 or s. 847.07, relating to obscene literature and profanity.  
 1716 46.45. Chapter 849, relating to gambling, lottery, gambling  
 1717 or gaming devices, slot machines, or any of the provisions  
 1718 within that chapter.  
 1719 47.46. Chapter 874, relating to criminal gangs.  
 1720 48.47. Chapter 893, relating to drug abuse prevention and  
 1721 control.  
 1722 49.48. Chapter 896, relating to offenses related to  
 1723 financial transactions.  
 1724 50.49. Sections 914.22 and 914.23, relating to tampering  
 1725 with or harassing a witness, victim, or informant, and  
 1726 retaliation against a witness, victim, or informant.  
 1727 51.50. Sections 918.12 and 918.13, relating to tampering  
 1728 with jurors and evidence.  
 1729 Section 37. Section 905.34, Florida Statutes, is amended to  
 1730 read:  
 1731 905.34 Powers and duties; law applicable.—The jurisdiction  
 1732 of a statewide grand jury impaneled under this chapter shall  
 1733 extend throughout the state. The subject matter jurisdiction of  
 1734 the statewide grand jury shall be limited to the offenses of:  
 1735 (1) Bribery, burglary, carjacking, home-invasion robbery,  
 1736 criminal usury, extortion, gambling, kidnapping, larceny,  
 1737 murder, prostitution, perjury, and robbery;  
 1738 (2) Crimes involving narcotic or other dangerous drugs;  
 1739 (3) Any violation of the provisions of the Florida RICO  
 1740 (Racketeer Influenced and Corrupt Organization) Act, including

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any offense listed in the definition of racketeering activity in s. 895.02(8)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

(4) Any violation of the provisions of the Florida Anti-Fencing Act;

(5) Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

(6) Any violation of the provisions of chapter 815;

(7) Any crime involving, or resulting in, fraud or deceit upon any person;

(8) Any violation of s. 847.003, s. 847.0135, s. 847.0137, or s. 847.0138 relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.003, s. 847.0135, s. 847.0137, or s. 847.0138 or any violation of former s. 827.071 ~~chapter 827~~ where the crime is facilitated by or connected to the use of the Internet or any device capable of electronic data storage or transmission;

(9) Any criminal violation of part I of chapter 499;

(10) Any criminal violation of s. 409.920 or s. 409.9201;

(11) Any criminal violation of the Florida Money Laundering Act;

(12) Any criminal violation of the Florida Securities and Investor Protection Act; or

(13) Any violation of chapter 787, as well as any and all

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offenses related to a violation of chapter 787;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

Section 38. Paragraph (a) of subsection (1) of section 934.07, Florida Statutes, is amended to read:

934.07 Authorization for interception of wire, oral, or electronic communications.—

(1) The Governor, the Attorney General, the statewide prosecutor, or any state attorney may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with ss. 934.03-934.09 an order authorizing or approving the interception of, wire, oral, or electronic communications by:

(a) The Department of Law Enforcement or any law enforcement agency as defined in s. 934.02 having responsibility for the investigation of the offense as to which the application

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1799 is made when such interception may provide or has provided  
 1800 evidence of the commission of the offense of murder, kidnapping,  
 1801 aircraft piracy, arson, gambling, robbery, burglary, theft,  
 1802 dealing in stolen property, criminal usury, bribery, or  
 1803 extortion; any felony violation of ss. 790.161-790.166,  
 1804 inclusive; any violation of s. 787.06; any violation of chapter  
 1805 893; any violation of the provisions of the Florida Anti-Fencing  
 1806 Act; any violation of chapter 895; any violation of chapter 896;  
 1807 any violation of chapter 815; any violation of chapter 847; any  
 1808 violation of former s. 827.071; any violation of s. 944.40; or  
 1809 any conspiracy or solicitation to commit any violation of the  
 1810 laws of this state relating to the crimes specifically  
 1811 enumerated in this paragraph.

1812 Section 39. Section 938.085, Florida Statutes, is amended  
 1813 to read:

1814 938.085 Additional cost to fund rape crisis centers.—In  
 1815 addition to any sanction imposed when a person pleads guilty or  
 1816 nolo contendere to, or is found guilty of, regardless of  
 1817 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
 1818 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
 1819 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
 1820 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
 1821 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
 1822 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
 1823 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
 1824 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; former  
 1825 s. 827.071; s. 836.10; s. 847.003; s. 847.0133; s. 847.0135  
 1826 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7),  
 1827 (8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court

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1828 shall impose a surcharge of \$151. Payment of the surcharge shall  
 1829 be a condition of probation, community control, or any other  
 1830 court-ordered supervision. The sum of \$150 of the surcharge  
 1831 shall be deposited into the Rape Crisis Program Trust Fund  
 1832 established within the Department of Health by chapter 2003-140,  
 1833 Laws of Florida. The clerk of the court shall retain \$1 of each  
 1834 surcharge that the clerk of the court collects as a service  
 1835 charge of the clerk's office.

1836 Section 40. Subsection (1) of section 938.10, Florida  
 1837 Statutes, is amended to read:

1838 938.10 Additional court cost imposed in cases of certain  
 1839 crimes.—

1840 (1) If a person pleads guilty or nolo contendere to, or is  
 1841 found guilty of, regardless of adjudication, any offense against  
 1842 a minor in violation of s. 784.085, chapter 787, chapter 794,  
 1843 former s. 796.03, former s. 796.035, s. 800.04, chapter 827,  
 1844 former s. 827.071, s. 847.003, s. 847.012, s. 847.0133, s.  
 1845 847.0135 ~~847.0135(5)~~, s. 847.0137, s. 847.0138, s. 847.0145, s.  
 1846 893.147(3), or s. 985.701, or any offense in violation of s.  
 1847 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the  
 1848 court shall impose a court cost of \$151 against the offender in  
 1849 addition to any other cost or penalty required by law.

1850 Section 41. Paragraph (h) of subsection (1) of section  
 1851 943.0435, Florida Statutes, is amended to read:

1852 943.0435 Sexual offenders required to register with the  
 1853 department; penalty.—

1854 (1) As used in this section, the term:

1855 (h)1. "Sexual offender" means a person who meets the  
 1856 criteria in sub-subparagraph a., sub-subparagraph b., sub-

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1857 subparagraph c., or sub-subparagraph d., as follows:

1858       a.(I) Has been convicted of committing, or attempting,  
 1859 soliciting, or conspiring to commit, any of the criminal  
 1860 offenses proscribed in the following statutes in this state or  
 1861 similar offenses in another jurisdiction: s. 393.135(2); s.  
 1862 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
 1863 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former  
 1864 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.  
 1865 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.  
 1866 810.145(8); s. 825.1025; former s. 827.071; s. 847.003; s.  
 1867 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.  
 1868 847.0138; s. 847.0145; s. 895.03, if the court makes a written  
 1869 finding that the racketeering activity involved at least one  
 1870 sexual offense listed in this sub-subparagraph or at least  
 1871 one offense listed in this sub-sub-subparagraph with sexual  
 1872 intent or motive; s. 916.1075(2); or s. 985.701(1); or any  
 1873 similar offense committed in this state which has been  
 1874 redesignated from a former statute number to one of those listed  
 1875 in this sub-sub-subparagraph; and

1876       (II) Has been released on or after October 1, 1997, from  
 1877 the sanction imposed for any conviction of an offense described  
 1878 in sub-sub-subparagraph (I). For purposes of sub-sub-  
 1879 subparagraph (I), a sanction imposed in this state or in any  
 1880 other jurisdiction includes, but is not limited to, a fine,  
 1881 probation, community control, parole, conditional release,  
 1882 control release, or incarceration in a state prison, federal  
 1883 prison, private correctional facility, or local detention  
 1884 facility;

1885       b. Establishes or maintains a residence in this state and

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1886 who has not been designated as a sexual predator by a court of  
 1887 this state but who has been designated as a sexual predator, as  
 1888 a sexually violent predator, or by another sexual offender  
 1889 designation in another state or jurisdiction and was, as a  
 1890 result of such designation, subjected to registration or  
 1891 community or public notification, or both, or would be if the  
 1892 person were a resident of that state or jurisdiction, without  
 1893 regard to whether the person otherwise meets the criteria for  
 1894 registration as a sexual offender;

1895       c. Establishes or maintains a residence in this state who  
 1896 is in the custody or control of, or under the supervision of,  
 1897 any other state or jurisdiction as a result of a conviction for  
 1898 committing, or attempting, soliciting, or conspiring to commit,  
 1899 any of the criminal offenses proscribed in the following  
 1900 statutes or similar offense in another jurisdiction: s.  
 1901 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
 1902 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
 1903 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
 1904 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
 1905 s. 800.04; s. 810.145(8); s. 825.1025; former s. 827.071; s.  
 1906 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.  
 1907 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court  
 1908 makes a written finding that the racketeering activity involved  
 1909 at least one sexual offense listed in this sub-subparagraph or  
 1910 at least one offense listed in this sub-subparagraph with sexual  
 1911 intent or motive; s. 916.1075(2); or s. 985.701(1); or any  
 1912 similar offense committed in this state which has been  
 1913 redesignated from a former statute number to one of those listed  
 1914 in this sub-subparagraph; or

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1915 d. On or after July 1, 2007, has been adjudicated  
 1916 delinquent for committing, or attempting, soliciting, or  
 1917 conspiring to commit, any of the criminal offenses proscribed in  
 1918 the following statutes in this state or similar offenses in  
 1919 another jurisdiction when the juvenile was 14 years of age or  
 1920 older at the time of the offense:

1921 (I) Section 794.011, excluding s. 794.011(10);

1922 (II) Section 800.04(4)(a)2. where the victim is under 12  
 1923 years of age or where the court finds sexual activity by the use  
 1924 of force or coercion;

1925 (III) Section 800.04(5)(c)1. where the court finds  
 1926 molestation involving unclothed genitals;

1927 (IV) Section 800.04(5)(d) where the court finds the use of  
 1928 force or coercion and unclothed genitals; or

1929 (V) Any similar offense committed in this state which has  
 1930 been redesignated from a former statute number to one of those  
 1931 listed in this sub-subparagraph.

1932 2. For all qualifying offenses listed in sub-subparagraph  
 1933 1.d., the court shall make a written finding of the age of the  
 1934 offender at the time of the offense.

1935  
 1936 For each violation of a qualifying offense listed in this  
 1937 subsection, except for a violation of s. 794.011, the court  
 1938 shall make a written finding of the age of the victim at the  
 1939 time of the offense. For a violation of s. 800.04(4), the court  
 1940 shall also make a written finding indicating whether the offense  
 1941 involved sexual activity and indicating whether the offense  
 1942 involved force or coercion. For a violation of s. 800.04(5), the  
 1943 court shall also make a written finding that the offense did or

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1944 did not involve unclothed genitals or genital area and that the  
 1945 offense did or did not involve the use of force or coercion.

1946 Section 42. Paragraph (a) of subsection (1) and subsection  
 1947 (3) of section 943.04354, Florida Statutes, are amended to read:

1948 943.04354 Removal of the requirement to register as a  
 1949 sexual offender or sexual predator in special circumstances.—

1950 (1) For purposes of this section, a person shall be  
 1951 considered for removal of the requirement to register as a  
 1952 sexual offender or sexual predator only if the person:

1953 (a) Was convicted, regardless of adjudication, or  
 1954 adjudicated delinquent of a violation of s. 800.04, former s.  
 1955 827.071, s. 847.003, ~~s.~~ s. 847.0135(5), or s. 847.0137(2) or of  
 1956 a similar offense in another jurisdiction and if the person does  
 1957 not have any other conviction, regardless of adjudication, or  
 1958 adjudication of delinquency for a violation of s. 794.011, s.  
 1959 800.04, ~~former s. 827.071, s. 847.003, ~~s.~~ s. 847.0135(5), or s.~~  
 1960 847.0137(2) or for a similar offense in another jurisdiction;

1961 (3) If a person provides to the Department of Law  
 1962 Enforcement a certified copy of the court's order removing the  
 1963 requirement that the person register as a sexual offender or  
 1964 sexual predator for the violation of s. 794.011, s. 800.04,  
 1965 former s. 827.071, s. 847.003, ~~s.~~ s. 847.0135(5), or s.  
 1966 847.0137(2) or a similar offense in another jurisdiction, the  
 1967 registration requirement will not apply to the person and the  
 1968 department shall remove all information about the person from  
 1969 the public registry of sexual offenders and sexual predators  
 1970 maintained by the department. However, the removal of this  
 1971 information from the public registry does not mean that the  
 1972 public is denied access to information about the person's

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1973 criminal history or record that is otherwise available as a  
 1974 public record.

1975 Section 43. Section 943.0585, Florida Statutes, is amended  
 1976 to read:

1977 943.0585 Court-ordered expunction of criminal history  
 1978 records.—The courts of this state have jurisdiction over their  
 1979 own procedures, including the maintenance, expunction, and  
 1980 correction of judicial records containing criminal history  
 1981 information to the extent such procedures are not inconsistent  
 1982 with the conditions, responsibilities, and duties established by  
 1983 this section. Any court of competent jurisdiction may order a  
 1984 criminal justice agency to expunge the criminal history record  
 1985 of a minor or an adult who complies with the requirements of  
 1986 this section. The court shall not order a criminal justice  
 1987 agency to expunge a criminal history record until the person  
 1988 seeking to expunge a criminal history record has applied for and  
 1989 received a certificate of eligibility for expunction pursuant to  
 1990 subsection (2) or subsection (5). A criminal history record that  
 1991 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,  
 1992 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,  
 1993 s. 825.1025, former s. 827.071, chapter 839, s. 847.003, s.  
 1994 847.0133, s. 847.0135, s. 847.0137(2), s. 847.0145, s. 893.135,  
 1995 s. 916.1075, a violation enumerated in s. 907.041, or any  
 1996 violation specified as a predicate offense for registration as a  
 1997 sexual predator pursuant to s. 775.21, without regard to whether  
 1998 that offense alone is sufficient to require such registration,  
 1999 or for registration as a sexual offender pursuant to s.  
 2000 943.0435, may not be expunged, without regard to whether  
 2001 adjudication was withheld, if the defendant was found guilty of

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2002 or pled guilty or nolo contendere to the offense, or if the  
 2003 defendant, as a minor, was found to have committed, or pled  
 2004 guilty or nolo contendere to committing, the offense as a  
 2005 delinquent act. The court may only order expunction of a  
 2006 criminal history record pertaining to one arrest or one incident  
 2007 of alleged criminal activity, except as provided in this  
 2008 section. The court may, at its sole discretion, order the  
 2009 expunction of a criminal history record pertaining to more than  
 2010 one arrest if the additional arrests directly relate to the  
 2011 original arrest. If the court intends to order the expunction of  
 2012 records pertaining to such additional arrests, such intent must  
 2013 be specified in the order. A criminal justice agency may not  
 2014 expunge any record pertaining to such additional arrests if the  
 2015 order to expunge does not articulate the intention of the court  
 2016 to expunge a record pertaining to more than one arrest. This  
 2017 section does not prevent the court from ordering the expunction  
 2018 of only a portion of a criminal history record pertaining to one  
 2019 arrest or one incident of alleged criminal activity.

2020 Notwithstanding any law to the contrary, a criminal justice  
 2021 agency may comply with laws, court orders, and official requests  
 2022 of other jurisdictions relating to expunction, correction, or  
 2023 confidential handling of criminal history records or information  
 2024 derived therefrom. This section does not confer any right to the  
 2025 expunction of any criminal history record, and any request for  
 2026 expunction of a criminal history record may be denied at the  
 2027 sole discretion of the court.

2028 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each  
 2029 petition to a court to expunge a criminal history record is  
 2030 complete only when accompanied by:

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(a) A valid certificate of eligibility for expunction issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, prior to the date on which the petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.059, former s. 893.14, former s. 901.33, or former s. 943.058, unless expunction is sought of a criminal history record previously sealed for 10 years pursuant to paragraph (2)(h) and the record is otherwise eligible for expunction.

4. Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a

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person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. A certificate of eligibility for expunction is valid for 12 months after the date stamped on the certificate when issued by the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the renewal application. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction, and that none of the charges related to the arrest or alleged criminal activity to which the petition to expunge pertains resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt.

3. That the criminal history record does not relate to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,

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former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, former s. 827.071, chapter 839, s. 847.003, s. 847.0133, s. 847.0135, s. 847.0137(2), s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(b) Remits a \$75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge pertains.

(d) Has never, prior to the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a misdemeanor specified in s. 943.051(3)(b).

(e) Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.

(f) Has never secured a prior sealing or expunction of a

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criminal history record under this section, s. 943.059, former s. 893.14, former s. 901.33, or former s. 943.058, unless expunction is sought of a criminal history record previously sealed for 10 years pursuant to paragraph (h) and the record is otherwise eligible for expunction.

(g) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

(h) Has previously obtained a court order sealing the record under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for a minimum of 10 years because adjudication was withheld or because all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were not dismissed prior to trial, without regard to whether the outcome of the trial was other than an adjudication of guilt. The requirement for the record to have previously been sealed for a minimum of 10 years does not apply when a plea was not entered or all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were dismissed prior to trial.

### (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.



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2147 (b) If relief is granted by the court, the clerk of the  
 2148 court shall certify copies of the order to the appropriate state  
 2149 attorney or the statewide prosecutor and the arresting agency.  
 2150 The arresting agency is responsible for forwarding the order to  
 2151 any other agency to which the arresting agency disseminated the  
 2152 criminal history record information to which the order pertains.  
 2153 The department shall forward the order to expunge to the Federal  
 2154 Bureau of Investigation. The clerk of the court shall certify a  
 2155 copy of the order to any other agency which the records of the  
 2156 court reflect has received the criminal history record from the  
 2157 court.

2158 (c) For an order to expunge entered by a court prior to  
 2159 July 1, 1992, the department shall notify the appropriate state  
 2160 attorney or statewide prosecutor of an order to expunge which is  
 2161 contrary to law because the person who is the subject of the  
 2162 record has previously been convicted of a crime or comparable  
 2163 ordinance violation or has had a prior criminal history record  
 2164 sealed or expunged. Upon receipt of such notice, the appropriate  
 2165 state attorney or statewide prosecutor shall take action, within  
 2166 60 days, to correct the record and petition the court to void  
 2167 the order to expunge. The department shall seal the record until  
 2168 such time as the order is voided by the court.

2169 (d) On or after July 1, 1992, the department or any other  
 2170 criminal justice agency is not required to act on an order to  
 2171 expunge entered by a court when such order does not comply with  
 2172 the requirements of this section. Upon receipt of such an order,  
 2173 the department must notify the issuing court, the appropriate  
 2174 state attorney or statewide prosecutor, the petitioner or the  
 2175 petitioner's attorney, and the arresting agency of the reason

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2176 for noncompliance. The appropriate state attorney or statewide  
 2177 prosecutor shall take action within 60 days to correct the  
 2178 record and petition the court to void the order. No cause of  
 2179 action, including contempt of court, shall arise against any  
 2180 criminal justice agency for failure to comply with an order to  
 2181 expunge when the petitioner for such order failed to obtain the  
 2182 certificate of eligibility as required by this section or such  
 2183 order does not otherwise comply with the requirements of this  
 2184 section.

2185 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
 2186 criminal history record of a minor or an adult which is ordered  
 2187 expunged by a court of competent jurisdiction pursuant to this  
 2188 section must be physically destroyed or obliterated by any  
 2189 criminal justice agency having custody of such record; except  
 2190 that any criminal history record in the custody of the  
 2191 department must be retained in all cases. A criminal history  
 2192 record ordered expunged that is retained by the department is  
 2193 confidential and exempt from the provisions of s. 119.07(1) and  
 2194 s. 24(a), Art. I of the State Constitution and not available to  
 2195 any person or entity except upon order of a court of competent  
 2196 jurisdiction. A criminal justice agency may retain a notation  
 2197 indicating compliance with an order to expunge.

2198 (a) The person who is the subject of a criminal history  
 2199 record that is expunged under this section or under other  
 2200 provisions of law, including former s. 893.14, former s. 901.33,  
 2201 and former s. 943.058, may lawfully deny or fail to acknowledge  
 2202 the arrests covered by the expunged record, except when the  
 2203 subject of the record:

2204 1. Is a candidate for employment with a criminal justice

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2205 agency;

2206 2. Is a defendant in a criminal prosecution;

2207 3. Concurrently or subsequently petitions for relief under

2208 this section, s. 943.0583, or s. 943.059;

2209 4. Is a candidate for admission to The Florida Bar;

2210 5. Is seeking to be employed or licensed by or to contract

2211 with the Department of Children and Families, the Division of

2212 Vocational Rehabilitation within the Department of Education,

2213 the Agency for Health Care Administration, the Agency for

2214 Persons with Disabilities, the Department of Health, the

2215 Department of Elderly Affairs, or the Department of Juvenile

2216 Justice or to be employed or used by such contractor or licensee

2217 in a sensitive position having direct contact with children, the

2218 disabled, or the elderly;

2219 6. Is seeking to be employed or licensed by the Department

2220 of Education, any district school board, any university

2221 laboratory school, any charter school, any private or parochial

2222 school, or any local governmental entity that licenses child

2223 care facilities;

2224 7. Is seeking to be licensed by the Division of Insurance

2225 Agent and Agency Services within the Department of Financial

2226 Services; or

2227 8. Is seeking to be appointed as a guardian pursuant to s.

2228 744.3125.

2229 (b) Subject to the exceptions in paragraph (a), a person

2230 who has been granted an expunction under this section, former s.

2231 893.14, former s. 901.33, or former s. 943.058 may not be held

2232 under any provision of law of this state to commit perjury or to

2233 be otherwise liable for giving a false statement by reason of

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2234 such person's failure to recite or acknowledge an expunged

2235 criminal history record.

2236 (c) Information relating to the existence of an expunged

2237 criminal history record which is provided in accordance with

2238 paragraph (a) is confidential and exempt from the provisions of

2239 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,

2240 except that the department shall disclose the existence of a

2241 criminal history record ordered expunged to the entities set

2242 forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their

2243 respective licensing, access authorization, and employment

2244 purposes, and to criminal justice agencies for their respective

2245 criminal justice purposes. It is unlawful for any employee of an

2246 entity set forth in subparagraph (a)1., subparagraph (a)4.,

2247 subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or

2248 subparagraph (a)8. to disclose information relating to the

2249 existence of an expunged criminal history record of a person

2250 seeking employment, access authorization, or licensure with such

2251 entity or contractor, except to the person to whom the criminal

2252 history record relates or to persons having direct

2253 responsibility for employment, access authorization, or

2254 licensure decisions. Any person who violates this paragraph

2255 commits a misdemeanor of the first degree, punishable as

2256 provided in s. 775.082 or s. 775.083.

2257 (5) EXCEPTION FOR LAWFUL SELF-DEFENSE.—Notwithstanding the

2258 eligibility requirements prescribed in paragraph (1)(b) and

2259 subsection (2), the department shall issue a certificate of

2260 eligibility for expunction under this subsection to a person who

2261 is the subject of a criminal history record if that person:

2262 (a) Has obtained, and submitted to the department, on a

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form provided by the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which states whether an information, indictment, or other charging document was not filed or was dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense pursuant to the provisions related to justifiable use of force in chapter 776.

(b) Each petition to a court to expunge a criminal history record pursuant to this subsection is complete only when accompanied by:

1. A valid certificate of eligibility for expunction issued by the department pursuant to this subsection.

2. The petitioner's sworn statement attesting that the petitioner is eligible for such an expunction to the best of his or her knowledge or belief.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) This subsection does not confer any right to the expunction of a criminal history record, and any request for expunction of a criminal history record may be denied at the discretion of the court.

(d) Subsections (3) and (4) shall apply to expunction ordered under this subsection.

(e) The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction

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under this subsection.

(6) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 44. Section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, former s. 827.071, chapter 839, s. 847.003, s. 847.0133, s. 847.0135, s. 847.0137(2), s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as

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2321 a sexual offender pursuant to s. 943.0435, may not be sealed,  
 2322 without regard to whether adjudication was withheld, if the  
 2323 defendant was found guilty of or pled guilty or nolo contendere  
 2324 to the offense, or if the defendant, as a minor, was found to  
 2325 have committed or pled guilty or nolo contendere to committing  
 2326 the offense as a delinquent act. The court may only order  
 2327 sealing of a criminal history record pertaining to one arrest or  
 2328 one incident of alleged criminal activity, except as provided in  
 2329 this section. The court may, at its sole discretion, order the  
 2330 sealing of a criminal history record pertaining to more than one  
 2331 arrest if the additional arrests directly relate to the original  
 2332 arrest. If the court intends to order the sealing of records  
 2333 pertaining to such additional arrests, such intent must be  
 2334 specified in the order. A criminal justice agency may not seal  
 2335 any record pertaining to such additional arrests if the order to  
 2336 seal does not articulate the intention of the court to seal  
 2337 records pertaining to more than one arrest. This section does  
 2338 not prevent the court from ordering the sealing of only a  
 2339 portion of a criminal history record pertaining to one arrest or  
 2340 one incident of alleged criminal activity. Notwithstanding any  
 2341 law to the contrary, a criminal justice agency may comply with  
 2342 laws, court orders, and official requests of other jurisdictions  
 2343 relating to sealing, correction, or confidential handling of  
 2344 criminal history records or information derived therefrom. This  
 2345 section does not confer any right to the sealing of any criminal  
 2346 history record, and any request for sealing a criminal history  
 2347 record may be denied at the sole discretion of the court.

2348 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each  
 2349 petition to a court to seal a criminal history record is

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2350 complete only when accompanied by:

2351 (a) A valid certificate of eligibility for sealing issued  
 2352 by the department pursuant to subsection (2).

2353 (b) The petitioner's sworn statement attesting that the  
 2354 petitioner:

2355 1. Has never, prior to the date on which the petition is  
 2356 filed, been adjudicated guilty of a criminal offense or  
 2357 comparable ordinance violation, or been adjudicated delinquent  
 2358 for committing any felony or a misdemeanor specified in s.  
 2359 943.051(3)(b).

2360 2. Has not been adjudicated guilty of or adjudicated  
 2361 delinquent for committing any of the acts stemming from the  
 2362 arrest or alleged criminal activity to which the petition to  
 2363 seal pertains.

2364 3. Has never secured a prior sealing or expunction of a  
 2365 criminal history record under this section, s. 943.0585, former  
 2366 s. 893.14, former s. 901.33, or former s. 943.058.

2367 4. Is eligible for such a sealing to the best of his or her  
 2368 knowledge or belief and does not have any other petition to seal  
 2369 or any petition to expunge pending before any court.

2370  
 2371 Any person who knowingly provides false information on such  
 2372 sworn statement to the court commits a felony of the third  
 2373 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 2374 775.084.

2375 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to  
 2376 petitioning the court to seal a criminal history record, a  
 2377 person seeking to seal a criminal history record shall apply to  
 2378 the department for a certificate of eligibility for sealing. The

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2379 department shall, by rule adopted pursuant to chapter 120,  
 2380 establish procedures pertaining to the application for and  
 2381 issuance of certificates of eligibility for sealing. A  
 2382 certificate of eligibility for sealing is valid for 12 months  
 2383 after the date stamped on the certificate when issued by the  
 2384 department. After that time, the petitioner must reapply to the  
 2385 department for a new certificate of eligibility. Eligibility for  
 2386 a renewed certification of eligibility must be based on the  
 2387 status of the applicant and the law in effect at the time of the  
 2388 renewal application. The department shall issue a certificate of  
 2389 eligibility for sealing to a person who is the subject of a  
 2390 criminal history record provided that such person:

2391 (a) Has submitted to the department a certified copy of the  
 2392 disposition of the charge to which the petition to seal  
 2393 pertains.

2394 (b) Remits a \$75 processing fee to the department for  
 2395 placement in the Department of Law Enforcement Operating Trust  
 2396 Fund, unless such fee is waived by the executive director.

2397 (c) Has never, prior to the date on which the application  
 2398 for a certificate of eligibility is filed, been adjudicated  
 2399 guilty of a criminal offense or comparable ordinance violation,  
 2400 or been adjudicated delinquent for committing any felony or a  
 2401 misdemeanor specified in s. 943.051(3)(b).

2402 (d) Has not been adjudicated guilty of or adjudicated  
 2403 delinquent for committing any of the acts stemming from the  
 2404 arrest or alleged criminal activity to which the petition to  
 2405 seal pertains.

2406 (e) Has never secured a prior sealing or expunction of a  
 2407 criminal history record under this section, s. 943.0585, former

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2408 s. 893.14, former s. 901.33, or former s. 943.058.

2409 (f) Is no longer under court supervision applicable to the  
 2410 disposition of the arrest or alleged criminal activity to which  
 2411 the petition to seal pertains.

2412 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

2413 (a) In judicial proceedings under this section, a copy of  
 2414 the completed petition to seal shall be served upon the  
 2415 appropriate state attorney or the statewide prosecutor and upon  
 2416 the arresting agency; however, it is not necessary to make any  
 2417 agency other than the state a party. The appropriate state  
 2418 attorney or the statewide prosecutor and the arresting agency  
 2419 may respond to the court regarding the completed petition to  
 2420 seal.

2421 (b) If relief is granted by the court, the clerk of the  
 2422 court shall certify copies of the order to the appropriate state  
 2423 attorney or the statewide prosecutor and to the arresting  
 2424 agency. The arresting agency is responsible for forwarding the  
 2425 order to any other agency to which the arresting agency  
 2426 disseminated the criminal history record information to which  
 2427 the order pertains. The department shall forward the order to  
 2428 seal to the Federal Bureau of Investigation. The clerk of the  
 2429 court shall certify a copy of the order to any other agency  
 2430 which the records of the court reflect has received the criminal  
 2431 history record from the court.

2432 (c) For an order to seal entered by a court prior to July  
 2433 1, 1992, the department shall notify the appropriate state  
 2434 attorney or statewide prosecutor of any order to seal which is  
 2435 contrary to law because the person who is the subject of the  
 2436 record has previously been convicted of a crime or comparable

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ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to seal. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to seal entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to seal when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or when such order does not comply with the requirements of this section.

(e) An order sealing a criminal history record pursuant to this section does not require that such record be surrendered to the court, and such record shall continue to be maintained by the department and other criminal justice agencies.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court pursuant to this section is confidential and exempt from

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the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, which include conducting a criminal history background check for approval of firearms purchases or transfers as authorized by state or federal law, to judges in the state courts system for the purpose of assisting them in their case-related decisionmaking responsibilities, as set forth in s. 943.053(5), or to those entities set forth in subparagraphs (a)1., 4., 5., 6., 8., 9., and 10. for their respective licensing, access authorization, and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section, s. 943.0583, or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile

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Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly;

6. Is seeking to be employed or licensed by the Department of Education, a district school board, a university laboratory school, a charter school, a private or parochial school, or a local governmental entity that licenses child care facilities;

7. Is attempting to purchase a firearm from a licensed importer, licensed manufacturer, or licensed dealer and is subject to a criminal history check under state or federal law;

8. Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services;

9. Is seeking to be appointed as a guardian pursuant to s. 744.3125; or

10. Is seeking to be licensed by the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services to carry a concealed weapon or concealed firearm. This subparagraph applies only in the determination of an applicant's eligibility under s. 790.06.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of

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paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., 6., 8., 9., and 10. for their respective licensing, access authorization, and employment purposes. An employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., subparagraph (a)8., subparagraph (a)9., or subparagraph (a)10. may not disclose information relating to the existence of a sealed criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment, access authorization, or licensure decisions. A person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 45. Paragraph (f) of subsection (1) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section, the term:

(f) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following

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2553 statutes in this state or similar offenses in another  
 2554 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
 2555 787.02, or s. 787.025(2)(c), where the victim is a minor; s.  
 2556 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.  
 2557 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;  
 2558 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former  
 2559 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.  
 2560 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03,  
 2561 if the court makes a written finding that the racketeering  
 2562 activity involved at least one sexual offense listed in this  
 2563 paragraph or at least one offense listed in this paragraph with  
 2564 sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or  
 2565 any similar offense committed in this state which has been  
 2566 redesignated from a former statute number to one of those listed  
 2567 in this subsection, when the department has received verified  
 2568 information regarding such conviction; an offender's  
 2569 computerized criminal history record is not, in and of itself,  
 2570 verified information.

2571 Section 46. Paragraph (f) of subsection (1) of section  
 2572 944.607, Florida Statutes, is amended to read:

2573 944.607 Notification to Department of Law Enforcement of  
 2574 information on sexual offenders.—

2575 (1) As used in this section, the term:

2576 (f) "Sexual offender" means a person who is in the custody  
 2577 or control of, or under the supervision of, the department or is  
 2578 in the custody of a private correctional facility:

2579 1. On or after October 1, 1997, as a result of a conviction  
 2580 for committing, or attempting, soliciting, or conspiring to  
 2581 commit, any of the criminal offenses proscribed in the following

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2582 statutes in this state or similar offenses in another  
 2583 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
 2584 787.02, or s. 787.025(2)(c), where the victim is a minor; s.  
 2585 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.  
 2586 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;  
 2587 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former  
 2588 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.  
 2589 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03,  
 2590 if the court makes a written finding that the racketeering  
 2591 activity involved at least one sexual offense listed in this  
 2592 subparagraph or at least one offense listed in this subparagraph  
 2593 with sexual intent or motive; s. 916.1075(2); or s. 985.701(1);  
 2594 or any similar offense committed in this state which has been  
 2595 redesignated from a former statute number to one of those listed  
 2596 in this paragraph; or

2597 2. Who establishes or maintains a residence in this state  
 2598 and who has not been designated as a sexual predator by a court  
 2599 of this state but who has been designated as a sexual predator,  
 2600 as a sexually violent predator, or by another sexual offender  
 2601 designation in another state or jurisdiction and was, as a  
 2602 result of such designation, subjected to registration or  
 2603 community or public notification, or both, or would be if the  
 2604 person were a resident of that state or jurisdiction, without  
 2605 regard as to whether the person otherwise meets the criteria for  
 2606 registration as a sexual offender.

2607 Section 47. Subsections (7), (10), and (14) of section  
 2608 947.1405, Florida Statutes, are amended, and subsection (15) is  
 2609 added to that section, to read:

2610 947.1405 Conditional release program.—



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(7) (a) Any inmate who is convicted of a crime committed on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, and is subject to conditional release supervision, shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

1. A mandatory curfew from 10 p.m. to 6 a.m. The commission may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the commission determines that imposing a curfew would endanger the victim, the commission may consider alternative sanctions.

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, child care facility, park, playground, designated public school bus stop, or other place where children regularly congregate. A releasee who is subject to this subparagraph may not relocate to a residence that is within 1,000 feet of a public school bus stop. Beginning October 1, 2004, the commission or the department may not approve a residence that is located within 1,000 feet of a school, child care facility, park, playground, designated school bus stop, or other place where children regularly congregate for any releasee who is subject to this subparagraph. On October 1, 2004, the department shall notify each affected school district of the location of the residence of a releasee 30 days prior to release and thereafter, if the releasee relocates to a new residence, shall notify any affected school district of the residence of the releasee within 30 days after relocation. If, on October 1,

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2004, any public school bus stop is located within 1,000 feet of the existing residence of such releasee, the district school board shall relocate that school bus stop. Beginning October 1, 2004, a district school board may not establish or relocate a public school bus stop within 1,000 feet of the residence of a releasee who is subject to this subparagraph. The failure of the district school board to comply with this subparagraph shall not result in a violation of conditional release supervision. A releasee who is subject to this subparagraph may not be forced to relocate and does not violate his or her conditional release supervision if he or she is living in a residence that meets the requirements of this subparagraph and a school, child care facility, park, playground, designated public school bus stop, or other place where children regularly congregate is subsequently established within 1,000 feet of his or her residence.

3. Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the releasee's own expense. If a qualified practitioner is not available within a 50-mile radius of the releasee's residence, the offender shall participate in other appropriate therapy.

4. A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, a qualified practitioner in the sexual offender treatment program, and the sentencing court.

5. If the victim was under the age of 18, a prohibition against contact with children under the age of 18 without review and approval by the commission. The commission may approve

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supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The commission may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the commission must review and consider the following:

a. A risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of the following components:

(I) The sex offender's current legal status;

(II) The sex offender's history of adult charges with apparent sexual motivation;

(III) The sex offender's history of adult charges without apparent sexual motivation;

(IV) The sex offender's history of juvenile charges, whenever available;

(V) The sex offender's offender treatment history, including a consultation from the sex offender's treating, or most recent treating, therapist;

(VI) The sex offender's current mental status;

(VII) The sex offender's mental health and substance abuse history as provided by the Department of Corrections;

(VIII) The sex offender's personal, social, educational,

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and work history;

(IX) The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;

(X) A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;

(XI) The child's preference and relative comfort level with the proposed contact, when age-appropriate;

(XII) The parent's or legal guardian's preference regarding the proposed contact; and

(XIII) The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child.

The written report of the assessment must be given to the commission.

b. A recommendation made as a part of the risk-assessment report as to whether supervised contact with the child should be approved;

c. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk assessment. The commission may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;

d. A safety plan prepared by the qualified practitioner,

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who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child.

The safety plan must be reviewed and approved by the Department of Corrections before being submitted to the commission; and

e. Evidence that the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide, constant supervision any time the child is in contact with the offender.

The commission may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not demonstrated to the commission that he or she has met the requirements of a qualified practitioner as defined in this section.

6. If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, child care facility, park, playground, or other place where children regularly congregate, as prescribed by the commission.

7. Unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

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8. Effective for a releasee whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until a qualified practitioner in the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

9. A requirement that the releasee must submit two specimens of blood to the Department of Law Enforcement to be registered with the DNA database.

10. A requirement that the releasee make restitution to the victim, as determined by the sentencing court or the commission, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

11. Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(b) For a releasee whose crime was committed on or after October 1, 1997, in violation of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to conditional release supervision, in addition to any other provision of this subsection, the commission shall impose the following additional conditions of conditional release supervision:

1. As part of a treatment program, participation in a minimum of one annual polygraph examination to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. The polygraph examination must be conducted by a polygrapher who is a member

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of a national or state polygraph association and who is certified as a postconviction sex offender polygrapher, where available, and at the expense of the releasee. The results of the examination shall be provided to the releasee's probation officer and qualified practitioner and may not be used as evidence in a hearing to prove that a violation of supervision has occurred.

2. Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

3. A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

4. If there was sexual contact, a submission to, at the releasee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

5. Electronic monitoring of any form when ordered by the commission. Any person who has been placed under supervision and is electronically monitored by the department must pay the department for the cost of the electronic monitoring service at a rate that may not exceed the full cost of the monitoring service. Funds collected under this subparagraph shall be deposited into the General Revenue Fund. The department may exempt a person from the payment of all or any part of the electronic monitoring service cost if the department finds that any of the factors listed in s. 948.09(3) exist.

(10) Effective for a releasee whose crime was committed on or after September 1, 2005, in violation of chapter 794, s. 800.04(4), (5), or (6), former s. 827.071, or s. 847.0145, and the unlawful activity involved a victim who was 15 years of age

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or younger and the offender is 18 years of age or older or for a releasee who is designated as a sexual predator pursuant to s. 775.21, in addition to any other provision of this section, the commission must order electronic monitoring for the duration of the releasee's supervision.

(14) Effective for a releasee whose crime was committed on or after October 1, 2014, in violation of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, in addition to any other provision of this section, the commission must impose a condition prohibiting the releasee from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program. Visual or auditory material includes, but is not limited to, telephone, electronic media, computer programs, and computer services.

(15) Effective for a releasee whose crime was committed on or after October 1, 2018, in violation of s. 847.003 or s. 847.0137(2), in addition to any other provision of this section, the commission must impose the conditions specified in subsections (7), (10), (12), and (14).

Section 48. Subsection (2) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto such other or others as it considers proper. However, the sentencing court may only impose a condition of supervision allowing an

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 offender convicted of s. 794.011, s. 800.04, former s. 827.071,  
 s. 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 to  
 reside in another state if the order stipulates that it is  
 contingent upon the approval of the receiving state interstate  
 compact authority. The court may rescind or modify at any time  
 the terms and conditions theretofore imposed by it upon the  
 probationer. However, if the court withholds adjudication of  
 guilt or imposes a period of incarceration as a condition of  
 probation, the period may not exceed 364 days, and incarceration  
 shall be restricted to either a county facility, or a probation  
 and restitution center under the jurisdiction of the Department  
 of Corrections.

Section 49. Subsection (1) of section 948.04, Florida  
 Statutes, is amended to read:

948.04 Period of probation; duty of probationer; early  
 termination.—

(1) Defendants found guilty of felonies who are placed on  
 probation shall be under supervision not to exceed 2 years  
 unless otherwise specified by the court. No defendant placed on  
 probation pursuant to s. 948.012(1) is subject to the probation  
 limitations of this subsection. A defendant who is placed on  
 probation or community control for a violation of chapter 794,  
~~or~~ chapter 827, s. 847.003, or s. 847.0137(2) is subject to the  
 maximum level of supervision provided by the supervising agency,  
 and that supervision shall continue through the full term of the  
 court-imposed probation or community control.

Section 50. Subsection (4) and paragraph (c) of subsection  
 (8) of section 948.06, Florida Statutes, are amended to read:

948.06 Violation of probation or community control;

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 revocation; modification; continuance; failure to pay  
 restitution or cost of supervision.—  
 (4) Notwithstanding any other provision of this section, a  
 felony probationer or an offender in community control who is  
 arrested for violating his or her probation or community control  
 in a material respect may be taken before the court in the  
 county or circuit in which the probationer or offender was  
 arrested. That court shall advise him or her of the charge of a  
 violation and, if such charge is admitted, shall cause him or  
 her to be brought before the court that granted the probation or  
 community control. If the violation is not admitted by the  
 probationer or offender, the court may commit him or her or  
 release him or her with or without bail to await further  
 hearing. However, if the probationer or offender is under  
 supervision for any criminal offense proscribed in chapter 794,  
 s. 800.04(4), (5), (6), former s. 827.071, or s. 847.0145, or is  
 a registered sexual predator or a registered sexual offender, or  
 is under supervision for a criminal offense for which he or she  
 would meet the registration criteria in s. 775.21, s. 943.0435,  
 or s. 944.607 but for the effective date of those sections, the  
 court must make a finding that the probationer or offender is  
 not a danger to the public prior to release with or without  
 bail. In determining the danger posed by the offender's or  
 probationer's release, the court may consider the nature and  
 circumstances of the violation and any new offenses charged; the  
 offender's or probationer's past and present conduct, including  
 convictions of crimes; any record of arrests without conviction  
 for crimes involving violence or sexual crimes; any other  
 evidence of allegations of unlawful sexual conduct or the use of

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2901 violence by the offender or probationer; the offender's or  
 2902 probationer's family ties, length of residence in the community,  
 2903 employment history, and mental condition; his or her history and  
 2904 conduct during the probation or community control supervision  
 2905 from which the violation arises and any other previous  
 2906 supervisions, including disciplinary records of previous  
 2907 incarcerations; the likelihood that the offender or probationer  
 2908 will engage again in a criminal course of conduct; the weight of  
 2909 the evidence against the offender or probationer; and any other  
 2910 facts the court considers relevant. The court, as soon as is  
 2911 practicable, shall give the probationer or offender an  
 2912 opportunity to be fully heard on his or her behalf in person or  
 2913 by counsel. After the hearing, the court shall make findings of  
 2914 fact and forward the findings to the court that granted the  
 2915 probation or community control and to the probationer or  
 2916 offender or his or her attorney. The findings of fact by the  
 2917 hearing court are binding on the court that granted the  
 2918 probation or community control. Upon the probationer or offender  
 2919 being brought before it, the court that granted the probation or  
 2920 community control may revoke, modify, or continue the probation  
 2921 or community control or may place the probationer into community  
 2922 control as provided in this section. However, the probationer or  
 2923 offender shall not be released and shall not be admitted to  
 2924 bail, but shall be brought before the court that granted the  
 2925 probation or community control if any violation of felony  
 2926 probation or community control other than a failure to pay costs  
 2927 or fines or make restitution payments is alleged to have been  
 2928 committed by:

2929 (a) A violent felony offender of special concern, as

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2930 defined in this section;

2931 (b) A person who is on felony probation or community  
 2932 control for any offense committed on or after the effective date  
 2933 of this act and who is arrested for a qualifying offense as  
 2934 defined in this section; or

2935 (c) A person who is on felony probation or community  
 2936 control and has previously been found by a court to be a  
 2937 habitual violent felony offender as defined in s. 775.084(1)(b),  
 2938 a three-time violent felony offender as defined in s.  
 2939 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
 2940 arrested for committing a qualifying offense as defined in this  
 2941 section on or after the effective date of this act.

2942 (8)

2943 (c) For purposes of this section, the term "qualifying  
 2944 offense" means any of the following:

2945 1. Kidnapping or attempted kidnapping under s. 787.01,  
 2946 false imprisonment of a child under the age of 13 under s.  
 2947 787.02(3), or luring or enticing a child under s. 787.025(2)(b)  
 2948 or (c).

2949 2. Murder or attempted murder under s. 782.04, attempted  
 2950 felony murder under s. 782.051, or manslaughter under s. 782.07.

2951 3. Aggravated battery or attempted aggravated battery under  
 2952 s. 784.045.

2953 4. Sexual battery or attempted sexual battery under s.  
 2954 794.011(2), (3), (4), or (8)(b) or (c).

2955 5. Lewd or lascivious battery or attempted lewd or  
 2956 lascivious battery under s. 800.04(4), lewd or lascivious  
 2957 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious  
 2958 conduct under s. 800.04(6)(b), or lewd or lascivious exhibition

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2959 under s. 800.04(7)(b), ~~or lewd or lascivious exhibition on~~  
 2960 ~~computer under s. 847.0135(5)(b).~~

2961 6. Robbery or attempted robbery under s. 812.13, carjacking  
 2962 or attempted carjacking under s. 812.133, or home invasion  
 2963 robbery or attempted home invasion robbery under s. 812.135.

2964 7. Lewd or lascivious offense upon or in the presence of an  
 2965 elderly or disabled person or attempted lewd or lascivious  
 2966 offense upon or in the presence of an elderly or disabled person  
 2967 under s. 825.1025.

2968 8. Sexual performance by a child or attempted sexual  
 2969 performance by a child under former s. 827.071 or s. 847.003.

2970 9. Computer pornography or child exploitation under s.  
 2971 847.0135 ~~847.0135(2) or (3), transmission of~~ child pornography  
 2972 under s. 847.0137, or selling or buying of minors under s.  
 2973 847.0145.

2974 10. Poisoning food or water under s. 859.01.

2975 11. Abuse of a dead human body under s. 872.06.

2976 12. Any burglary offense or attempted burglary offense that  
 2977 is either a first degree felony or second degree felony under s.  
 2978 810.02(2) or (3).

2979 13. Arson or attempted arson under s. 806.01(1).

2980 14. Aggravated assault under s. 784.021.

2981 15. Aggravated stalking under s. 784.048(3), (4), (5), or  
 2982 (7).

2983 16. Aircraft piracy under s. 860.16.

2984 17. Unlawful throwing, placing, or discharging of a  
 2985 destructive device or bomb under s. 790.161(2), (3), or (4).

2986 18. Treason under s. 876.32.

2987 19. Any offense committed in another jurisdiction which

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2988 would be an offense listed in this paragraph if that offense had  
 2989 been committed in this state.

2990 Section 51. Subsection (1) of section 948.062, Florida  
 2991 Statutes, is amended to read:

2992 948.062 Reviewing and reporting serious offenses committed  
 2993 by offenders placed on probation or community control.—

2994 (1) The department shall review the circumstances related  
 2995 to an offender placed on probation or community control who has  
 2996 been arrested while on supervision for the following offenses:

2997 (a) Any murder as provided in s. 782.04;

2998 (b) Any sexual battery as provided in s. 794.011 or s.  
 2999 794.023;

3000 (c) Any sexual performance by a child as provided in former  
 3001 s. 827.071 or s. 847.003;

3002 (d) Any kidnapping, false imprisonment, or luring of a  
 3003 child as provided in s. 787.01, s. 787.02, or s. 787.025;

3004 (e) Any lewd and lascivious battery or lewd and lascivious  
 3005 molestation as provided in s. 800.04(4) or (5);

3006 (f) Any aggravated child abuse as provided in s.  
 3007 827.03(2)(a);

3008 (g) Any robbery with a firearm or other deadly weapon, home  
 3009 invasion robbery, or carjacking as provided in s. 812.13(2)(a),  
 3010 s. 812.135, or s. 812.133;

3011 (h) Any aggravated stalking as provided in s. 784.048(3),  
 3012 (4), or (5);

3013 (i) Any forcible felony as provided in s. 776.08, committed  
 3014 by a person on probation or community control who is designated  
 3015 as a sexual predator; or

3016 (j) Any DUI manslaughter as provided in s. 316.193(3)(c),

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 or vehicular or vessel homicide as provided in s. 782.071 or s. 782.072, committed by a person who is on probation or community control for an offense involving death or injury resulting from a driving incident.

Section 52. Subsection (2) of section 948.101, Florida Statutes, is amended to read:

948.101 Terms and conditions of community control.—

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 364 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, or a residential treatment facility owned or operated by any entity providing such services.

Section 53. Subsections (1), (2), (3), and (5) of section 948.30, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

948.30 Additional terms and conditions of probation or

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 community control for certain sex offenses.—Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, child care facility, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, child care facility, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route. A probationer or community controllee who is subject to this paragraph may not be forced to relocate and does not violate his or her probation or community control if he or she is living in a residence that meets the



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requirements of this paragraph and a school, child care facility, park, playground, or other place where children regularly congregate is subsequently established within 1,000 feet of his or her residence.

(c) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. If a qualified practitioner is not available within a 50-mile radius of the probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, a qualified practitioner in the sexual offender treatment program, and the sentencing court.

(e) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the court must review and consider the following:

1. A risk assessment completed by a qualified practitioner.

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The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of the following components:

- a. The sex offender's current legal status;
- b. The sex offender's history of adult charges with apparent sexual motivation;
- c. The sex offender's history of adult charges without apparent sexual motivation;
- d. The sex offender's history of juvenile charges, whenever available;
- e. The sex offender's offender treatment history, including consultations with the sex offender's treating, or most recent treating, therapist;
- f. The sex offender's current mental status;
- g. The sex offender's mental health and substance abuse treatment history as provided by the Department of Corrections;
- h. The sex offender's personal, social, educational, and work history;
- i. The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;
- j. A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;
- k. The child's preference and relative comfort level with the proposed contact, when age appropriate;
- l. The parent's or legal guardian's preference regarding the proposed contact; and
- m. The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to

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the child.

The written report of the assessment must be given to the court;

2. A recommendation made as a part of the risk assessment report as to whether supervised contact with the child should be approved;

3. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk assessment. The court may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;

4. A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child. The safety plan must be reviewed and approved by the court; and

5. Evidence that the child's parent or legal guardian understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide, constant supervision any time the child is in contact with the offender.

The court may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not

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demonstrated to the court that he or she has met the requirements of a qualified practitioner as defined in this section.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to, schools, child care facilities, parks, playgrounds, pet stores, libraries, zoos, theme parks, and malls.

(g) Unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

(h) Effective for probationers and community controllees whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until a qualified practitioner in the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

(i) A requirement that the probationer or community controllee must submit a specimen of blood or other approved biological specimen to the Department of Law Enforcement to be registered with the DNA data bank.

(j) A requirement that the probationer or community controllee make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related

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professional services relating to physical, psychiatric, and psychological care.

(k) Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on community control or sex offender probation for a violation of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, in addition to any other provision of this section, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher who is a member of a national or state polygraph association and who is certified as a postconviction sex offender polygrapher, where available, and shall be paid for by the probationer or community controllee. The results of the polygraph examination shall be provided to the probationer's or community controllee's probation officer and qualified practitioner and shall not be used as evidence in court to prove that a violation of community supervision has occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office

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box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

(3) Effective for a probationer or community controllee whose crime was committed on or after September 1, 2005, and who:

(a) Is placed on probation or community control for a violation of chapter 794, s. 800.04(4), (5), or (6), former s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older;

(b) Is designated a sexual predator pursuant to s. 775.21; or

(c) Has previously been convicted of a violation of chapter 794, s. 800.04(4), (5), or (6), former s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older,

the court must order, in addition to any other provision of this section, mandatory electronic monitoring as a condition of the probation or community control supervision.

(5) Effective for a probationer or community controllee

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whose crime was committed on or after October 1, 2014, and who is placed on probation or community control for a violation of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, in addition to all other conditions imposed, the court must impose a condition prohibiting the probationer or community controllee from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program. Visual or auditory material includes, but is not limited to, telephone, electronic media, computer programs, and computer services.

(6) Effective for a probationer or community controllee whose crime was committed on or after October 1, 2018, and who is placed under supervision for violation of s. 847.003 or s. 847.0137(2), the court must impose the conditions specified in subsections (1)-(5) in addition to all other standard and special conditions imposed.

Section 54. Subsection (1) of section 948.32, Florida Statutes, is amended to read:

948.32 Requirements of law enforcement agency upon arrest of persons for certain sex offenses.—

(1) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to commit, a violation of s. 787.025(2)(c), s. 787.06(3)(g), chapter 794, former s. 796.03, s. 800.04, former s. 827.071, s. 847.003, s. 847.0133, s. 847.0135, s. 847.0137(2), or s. 847.0145, the law enforcement agency shall contact the Department of Corrections to verify

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whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

Section 55. Paragraph (e) of subsection (3) and subsection (10) of section 960.03, Florida Statutes, are amended to read: 960.03 Definitions; ss. 960.01-960.28.—As used in ss.

960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(e) A violation of former s. 827.071, s. 847.003, s. 847.0135, s. 847.0137, or s. 847.0138, related to online sexual exploitation and child pornography.

(10) "Identified victim of child pornography" means any person who, while under the age of 18, is depicted in any visual depiction image or movie of child pornography, as defined in s. 847.0137, and who is identified through a report generated by a law enforcement agency and provided to the National Center for Missing and Exploited Children's Child Victim Identification Program.

Section 56. Section 960.197, Florida Statutes, is amended to read:

960.197 Assistance to victims of online sexual exploitation and child pornography.—

(1) Notwithstanding the criteria set forth in s. 960.13 for crime victim compensation awards, the department may award compensation for counseling and other mental health services to treat psychological injury or trauma to:

(a) A child younger than 18 years of age who suffers psychiatric or psychological injury as a direct result of online sexual exploitation under former ~~any provision of~~ s. 827.071, s.

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3307 847.003, s. 847.0135, s. 847.0137, or s. 847.0138, and who does  
 3308 not otherwise sustain a personal injury or death; or

3309 (b) Any person who, while younger than age 18, was depicted  
 3310 in any ~~visual depiction image or movie, regardless of length,~~ of  
 3311 child pornography as defined in s. ~~847.0137~~ 847.001, who has  
 3312 been identified by a law enforcement agency or the National  
 3313 Center for Missing and Exploited Children as an identified  
 3314 victim of child pornography, who suffers psychiatric or  
 3315 psychological injury as a direct result of the crime, and who  
 3316 does not otherwise sustain a personal injury or death.

3317 (2) Compensation under this section is not contingent upon  
 3318 pursuit of a criminal investigation or prosecution.

3319 Section 57. Paragraph (d) of subsection (4) of section  
 3320 985.04, Florida Statutes, is amended to read:

3321 985.04 Oaths; records; confidential information.—

3322 (4)

3323 (d) The department shall disclose to the school  
 3324 superintendent the presence of any child in the care and custody  
 3325 or under the jurisdiction or supervision of the department who  
 3326 has a known history of criminal sexual behavior with other  
 3327 juveniles; is alleged to have committed juvenile sexual abuse as  
 3328 defined in s. 39.01; or has pled guilty or nolo contendere to,  
 3329 or has been found to have committed, a violation of chapter 794,  
 3330 chapter 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s.  
 3331 847.0133, s. 847.0135(5), or s. 847.0137, regardless of  
 3332 adjudication. Any employee of a district school board who  
 3333 knowingly and willfully discloses such information to an  
 3334 unauthorized person commits a misdemeanor of the second degree,  
 3335 punishable as provided in s. 775.082 or s. 775.083.

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3336 Section 58. Paragraph (a) of subsection (1) of section  
 3337 985.475, Florida Statutes, is amended to read:

3338 985.475 Juvenile sexual offenders.—

3339 (1) CRITERIA.—A “juvenile sexual offender” means:

3340 (a) A juvenile who has been found by the court under s.  
 3341 985.35 to have committed a violation of chapter 794, chapter  
 3342 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s. 847.0133,  
 3343 or s. 847.0137(2);

3344 Section 59. Paragraphs (mm) and (oo) of subsection (1) of  
 3345 section 1012.315, Florida Statutes, are amended to read:

3346 1012.315 Disqualification from employment.—A person is  
 3347 ineligible for educator certification, and instructional  
 3348 personnel and school administrators, as defined in s. 1012.01,  
 3349 are ineligible for employment in any position that requires  
 3350 direct contact with students in a district school system,  
 3351 charter school, or private school that accepts scholarship  
 3352 students under s. 1002.39 or s. 1002.395, if the person,  
 3353 instructional personnel, or school administrator has been  
 3354 convicted of:

3355 (1) Any felony offense prohibited under any of the  
 3356 following statutes:

3357 (mm) Former s. Section 827.071, relating to sexual  
 3358 performance by a child.

3359 (oo) Chapter 847, relating to obscenity and child  
 3360 exploitation.

3361 Section 60. Paragraphs (e), (f), and (h) of subsection (3)  
 3362 of section 921.0022, Florida Statutes, are amended to read:

3363 921.0022 Criminal Punishment Code; offense severity ranking  
 3364 chart.—

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3365 (3) OFFENSE SEVERITY RANKING CHART

3366 (e) LEVEL 5

3367

Florida Statute	Felony Degree	Description
3368 316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
3369 316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
3370 316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
3371 322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
3372 327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
3373 379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in

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such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

3374

379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

3375

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

3376

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing HIV positive.

3377

440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

3378

440.105(5) 2nd Unlawful solicitation for the purpose of making workers'

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				compensation claims.
3379	440.381(2)	2nd		Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
3380	624.401(4)(b)2.	2nd		Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
3381	626.902(1)(c)	2nd		Representing an unauthorized insurer; repeat offender.
3382	790.01(2)	3rd		Carrying a concealed firearm.
3383	790.162	2nd		Threat to throw or discharge destructive device.
3384	790.163(1)	2nd		False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
3385	790.221(1)	2nd		Possession of short-barreled shotgun or machine gun.
3386				

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	790.23	2nd		Felons in possession of firearms, ammunition, or electronic weapons or devices.
3387	796.05(1)	2nd		Live on earnings of a prostitute; 1st offense.
3388	800.04(6)(c)	3rd		Lewd or lascivious conduct; offender less than 18 years of age.
3389	800.04(7)(b)	2nd		Lewd or lascivious exhibition; offender 18 years of age or older.
3390	806.111(1)	3rd		Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
3391	812.0145(2)(b)	2nd		Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
3392	812.015(8)	3rd		Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
3393	812.019(1)	2nd		Stolen property; dealing in or

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	32-00268A-18		20181214__	
				trafficking in.
3394	812.131(2)(b)	3rd		Robbery by sudden snatching.
3395	812.16(2)	3rd		Owning, operating, or conducting a chop shop.
3396	817.034(4)(a)2.	2nd		Communications fraud, value \$20,000 to \$50,000.
3397	817.234(11)(b)	2nd		Insurance fraud; property value \$20,000 or more but less than \$100,000.
3398	817.2341(1), (2)(a) & (3)(a)	3rd		Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
3399	817.568(2)(b)	2nd		Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more

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	32-00268A-18		20181214__	
				persons.
3400	817.611(2)(a)	2nd		Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
3401	817.625(2)(b)	2nd		Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
3402	825.1025(4)	3rd		Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
3403	<del>827.071(4)</del>	2nd		<del>Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.</del>
3404	<del>827.071(5)</del>	3rd		<del>Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.</del>
3405	839.13(2)(b)	2nd		Falsifying records of an individual in the care and custody of a state agency

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involving great bodily harm or death.

3406

843.01 3rd Resist officer with violence to person; resist arrest with violence.

3407

847.0135(5) (b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

3408

847.0137(2) (a) 2nd Possess child pornography with intent to promote.

3409

847.0137(2) (b) 3rd Possess, control, or intentionally view child pornography.

3410

847.0137(3) 3rd Transmission of child  
~~847.0137~~  
~~(2) & (3)~~ pornography by electronic device or equipment.

3411

847.0138 3rd Transmission of material  
(2) & (3) harmful to minors to a minor by electronic device or equipment.

3412

874.05(1) (b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent

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offense.

3413

874.05(2) (a) 2nd Encouraging or recruiting person under 13 years of age to join a criminal gang.

3414

893.13(1) (a) 1. 2nd Sell, manufacture, or deliver cocaine (or other s.  
893.03(1) (a), (1) (b), (1) (d),  
(2) (a), (2) (b), or (2) (c) 4.  
drugs).

3415

893.13(1) (c) 2. 2nd Sell, manufacture, or deliver cannabis (or other s.  
893.03(1) (c), (2) (c) 1.,  
(2) (c) 2., (2) (c) 3., (2) (c) 5.,  
(2) (c) 6., (2) (c) 7., (2) (c) 8.,  
(2) (c) 9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

3416

893.13(1) (d) 1. 1st Sell, manufacture, or deliver cocaine (or other s.  
893.03(1) (a), (1) (b), (1) (d),  
(2) (a), (2) (b), or (2) (c) 4.

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drugs) within 1,000 feet of university.

3417

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

3418

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

3419

893.13(4)(b) 2nd Use or hire of minor; deliver to minor other controlled substance.

3420

893.1351(1) 3rd Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

3421

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3422 (f) LEVEL 6

3423

Florida Statute	Felony Degree	Description
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3424

316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
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3425

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
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3426

400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
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3427

499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
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3428

499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
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3429

499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
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3430

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	775.0875(1)	3rd	Taking firearm from law enforcement officer.
3431	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
3432	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
3433	784.041	3rd	Felony battery; domestic battery by strangulation.
3434	784.048(3)	3rd	Aggravated stalking; credible threat.
3435	784.048(5)	3rd	Aggravated stalking of person under 16.
3436	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
3437	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
3438	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
3439	784.081(2)	2nd	Aggravated assault on specified

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			official or employee.
3440	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
3441	784.083(2)	2nd	Aggravated assault on code inspector.
3442	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
3443	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
3444	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
3445	790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
3446	790.19	2nd	Shooting or throwing deadly

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missiles into dwellings,  
vessels, or vehicles.

3447

794.011(8)(a) 3rd Solicitation of minor to  
participate in sexual activity  
by custodial adult.

3448

794.05(1) 2nd Unlawful sexual activity with  
specified minor.

3449

800.04(5)(d) 3rd Lewd or lascivious molestation;  
victim 12 years of age or older  
but less than 16 years of age;  
offender less than 18 years.

3450

800.04(6)(b) 2nd Lewd or lascivious conduct;  
offender 18 years of age or  
older.

3451

806.031(2) 2nd Arson resulting in great bodily  
harm to firefighter or any  
other person.

3452

810.02(3)(c) 2nd Burglary of occupied structure;  
unarmed; no assault or battery.

3453

810.145(8)(b) 2nd Video voyeurism; certain minor  
victims; 2nd or subsequent  
offense.

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3454

812.014(2)(b)1. 2nd Property stolen \$20,000 or  
more, but less than \$100,000,  
grand theft in 2nd degree.

3455

812.014(6) 2nd Theft; property stolen \$3,000  
or more; coordination of  
others.

3456

812.015(9)(a) 2nd Retail theft; property stolen  
\$300 or more; second or  
subsequent conviction.

3457

812.015(9)(b) 2nd Retail theft; property stolen  
\$3,000 or more; coordination of  
others.

3458

812.13(2)(c) 2nd Robbery, no firearm or other  
weapon (strong-arm robbery).

3459

817.4821(5) 2nd Possess cloning paraphernalia  
with intent to create cloned  
cellular telephones.

3460

817.505(4)(b) 2nd Patient brokering; 10 or more  
patients.

3461

825.102(1) 3rd Abuse of an elderly person or  
disabled adult.

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3462

825.102(3)(c) 3rd Neglect of an elderly person or disabled adult.

3463

825.1025(3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

3464

825.103(3)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

3465

827.03(2)(c) 3rd Abuse of a child.

3466

827.03(2)(d) 3rd Neglect of a child.

3467

~~827.071(2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.~~

3468

836.05 2nd Threats; extortion.

3469

836.10 2nd Written threats to kill or do bodily injury.

3470

843.12 3rd Aids or assists person to escape.

3471

847.003 2nd Use or induce a child in a

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3472

sexual performance, or promote or direct such performance.

847.011

3rd Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

3473

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

3474

847.0135(2) 3rd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

3475

914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

3476

944.35(3)(a)2. 3rd Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

3477

944.40 2nd Escapes.

3478

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3479	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
3480	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
3481	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
3482	(h) LEVEL 8		
3483	Florida Statute	Felony Degree	Description
3484	316.193	2nd	DUI manslaughter.
3485	(3)(c)3.a.		
3486	316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
3487	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
3488	499.0051(6)	1st	Knowing trafficking in contraband prescription drugs.
	499.0051(7)	1st	Knowing forgery of prescription

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3489			labels or prescription drug labels.
	560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
3490	560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
3491	655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
3492	777.03(2)(a)	1st	Accessory after the fact, capital felony.
3493	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping,

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	32-00268A-18		20181214__	aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
3494	782.051(2)	1st		Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
3495	782.071(1)(b)	1st		Committing vehicular homicide and failing to render aid or give information.
3496	782.072(2)	1st		Committing vessel homicide and failing to render aid or give information.
3497	787.06(3)(a)1.	1st		Human trafficking for labor and services of a child.
3498	787.06(3)(b)	1st		Human trafficking using coercion for commercial sexual activity of an adult.
3499	787.06(3)(c)2.	1st		Human trafficking using coercion for labor and services of an unauthorized alien adult.
3500				

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	787.06(3)(e)1.	1st		Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
3501	787.06(3)(f)2.	1st		Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.
3502	790.161(3)	1st		Discharging a destructive device which results in bodily harm or property damage.
3503	794.011(5)(a)	1st		Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
3504	794.011(5)(b)	2nd		Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

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3505	794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
3506	794.011(5)(d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
3507	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
3508	800.04(4)(b)	2nd	Lewd or lascivious battery.
3509	800.04(4)(c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
3510	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.

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3511	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
3512	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
3513	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
3514	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
3515	812.13(2)(b)	1st	Robbery with a weapon.
3516	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
3517	817.505(4)(c)	1st	Patient brokering; 20 or more patients.
3518	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
3519			

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3520	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
3521	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
3522	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
3523	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
3524	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
3525	825.1025(2)	2nd	Lewd or lascivious battery upon

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3526			an elderly person or disabled adult.
	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
3527	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
3528	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
3529	<u>847.0135(3)</u>	<u>2nd</u>	<u>Solicitation of a child, via a computer service, to commit an unlawful sex act while misrepresenting one's age.</u>
3530	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
3531	860.16	1st	Aircraft piracy.
3532	893.13(1)(b)	1st	Sell or deliver in excess of 10

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grams of any substance  
specified in s. 893.03(1)(a) or  
(b).

3533

893.13(2)(b) 1st Purchase in excess of 10 grams  
of any substance specified in  
s. 893.03(1)(a) or (b).

3534

893.13(6)(c) 1st Possess in excess of 10 grams  
of any substance specified in  
s. 893.03(1)(a) or (b).

3535

893.135(1)(a)2. 1st Trafficking in cannabis, more  
than 2,000 lbs., less than  
10,000 lbs.

3536

893.135 1st Trafficking in cocaine, more  
(1)(b)1.b. than 200 grams, less than 400  
grams.

3537

893.135 1st Trafficking in illegal drugs,  
(1)(c)1.b. more than 14 grams, less than  
28 grams.

3538

893.135 1st Trafficking in hydrocodone, 50  
(1)(c)2.c. grams or more, less than 200  
grams.

3539

893.135 1st Trafficking in oxycodone, 25

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(1)(c)3.c. grams or more, less than 100  
grams.

3540

893.135 1st Trafficking in fentanyl, 14  
(1)(c)4.b.(II) grams or more, less than 28  
grams.

3541

893.135 1st Trafficking in phencyclidine,  
(1)(d)1.b. 200 grams or more, less than  
400 grams.

3542

893.135 1st Trafficking in methaqualone, 5  
(1)(e)1.b. kilograms or more, less than 25  
kilograms.

3543

893.135 1st Trafficking in amphetamine, 28  
(1)(f)1.b. grams or more, less than 200  
grams.

3544

893.135 1st Trafficking in flunitrazepam,  
(1)(g)1.b. 14 grams or more, less than 28  
grams.

3545

893.135 1st Trafficking in gamma-  
(1)(h)1.b. hydroxybutyric acid (GHB), 5  
kilograms or more, less than 10  
kilograms.

3546

893.135 1st Trafficking in 1,4-Butanediol,

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3547	(1) (j) 1.b.		5 kilograms or more, less than 10 kilograms.
3548	893.135	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
3549	(1) (k) 2.b.		
3550	893.135	1st	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.
3551	(1) (m) 2.c.		
3552	893.135	1st	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.
3553	(1) (n) 2.b.		
	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

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3554	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
3555	896.101(5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
3556	896.104(4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
3557	Section 61. <u>The Division of Law Revision and Information is directed to rename chapter 847, Florida Statutes, as "Obscenity; Child Exploitation."</u>		
3558			
3559	Section 62. For the purpose of incorporating the amendment made by this act to section 39.0139, Florida Statutes, in a reference thereto, paragraph (a) of subsection (9) of section 39.402, Florida Statutes, is reenacted to read:		
3560	39.402 Placement in a shelter.—		
3561	(9) (a) At any shelter hearing, the department shall provide to the court a recommendation for scheduled contact between the child and parents, if appropriate. The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. Any order		
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for visitation or other contact must conform to s. 39.0139. If visitation is ordered but will not commence within 72 hours of the shelter hearing, the department shall provide justification to the court.

Section 63. For the purpose of incorporating the amendment made by this act to section 39.0139, Florida Statutes, in a reference thereto, subsection (6) of section 39.506, Florida Statutes, is reenacted to read:

39.506 Arraignment hearings.—

(6) At any arraignment hearing, if the child is in an out-of-home placement, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. Any order for visitation or other contact must conform to the provisions of s. 39.0139.

Section 64. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (b) of subsection (6) of section 39.509, Florida Statutes, is reenacted to read:

39.509 Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of the parent unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing. Any order for visitation or other contact must conform to the provisions of s. 39.0139.

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(6) In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the following:

(b) The designation by a court as a sexual predator as defined in s. 775.21 or a substantially similar designation under laws of another jurisdiction.

Section 65. For the purpose of incorporating the amendment made by this act to section 39.0139, Florida Statutes, in a reference thereto, paragraph (d) of subsection (3) of section 39.521, Florida Statutes, is reenacted to read:

39.521 Disposition hearings; powers of disposition.—

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

Protective supervision continues until the court terminates it

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or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, no further judicial reviews are required, so long as permanency has been established for the child.

Section 66. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in references thereto, paragraphs (d) and (n) of subsection (1) of section 39.806, Florida Statutes, are reenacted to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(d) When the parent of a child is incarcerated and either:

1. The period of time for which the parent is expected to be incarcerated will constitute a significant portion of the child's minority. When determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable home. The period of time begins on the date that the parent enters into incarceration;

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2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child. When determining harm, the court shall consider the following factors:

a. The age of the child.

b. The relationship between the child and the parent.

c. The nature of the parent's current and past provision for the child's developmental, cognitive, psychological, and physical needs.

d. The parent's history of criminal behavior, which may include the frequency of incarceration and the unavailability of

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the parent to the child due to incarceration.

e. Any other factor the court deems relevant.

(n) The parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21.

Section 67. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 63.089, Florida Statutes, is reenacted to read:

63.089 Proceeding to terminate parental rights pending adoption; hearing; grounds; dismissal of petition; judgment.—

(4) FINDING OF ABANDONMENT.—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence that a parent or person having legal custody has abandoned the child in accordance with the definition contained in s. 63.032. A finding of abandonment may also be based upon emotional abuse or a refusal to provide reasonable financial support, when able, to a birth mother during her pregnancy or on whether the person alleged to have abandoned the child, while being able, failed to establish contact with the child or accept responsibility for the child's welfare.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 2001, in a federal, state, or county correctional institution and:

1. The period of time for which the parent has been or is expected to be incarcerated will constitute a significant portion of the child's minority. In determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable

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home. The period of time begins on the date that the parent enters into incarceration;

2. The incarcerated parent has been determined by a court of competent jurisdiction to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, convicted of child abuse as defined in s. 827.03, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of a substantially similar offense in another jurisdiction. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, termination of the parental rights of the incarcerated parent is in the best interests of the child.

Section 68. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (3) of section 63.092, Florida Statutes, is reenacted to read:

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.—

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3744 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the  
 3745 intended adoptive home, a preliminary home study must be  
 3746 performed by a licensed child-placing agency, a child-caring  
 3747 agency registered under s. 409.176, a licensed professional, or  
 3748 an agency described in s. 61.20(2), unless the adoptee is an  
 3749 adult or the petitioner is a stepparent or a relative. If the  
 3750 adoptee is an adult or the petitioner is a stepparent or a  
 3751 relative, a preliminary home study may be required by the court  
 3752 for good cause shown. The department is required to perform the  
 3753 preliminary home study only if there is no licensed child-  
 3754 placing agency, child-caring agency registered under s. 409.176,  
 3755 licensed professional, or agency described in s. 61.20(2), in  
 3756 the county where the prospective adoptive parents reside. The  
 3757 preliminary home study must be made to determine the suitability  
 3758 of the intended adoptive parents and may be completed prior to  
 3759 identification of a prospective adoptive minor. A favorable  
 3760 preliminary home study is valid for 1 year after the date of its  
 3761 completion. Upon its completion, a signed copy of the home study  
 3762 must be provided to the intended adoptive parents who were the  
 3763 subject of the home study. A minor may not be placed in an  
 3764 intended adoptive home before a favorable preliminary home study  
 3765 is completed unless the adoptive home is also a licensed foster  
 3766 home under s. 409.175. The preliminary home study must include,  
 3767 at a minimum:

3768 (a) An interview with the intended adoptive parents;  
 3769 (b) Records checks of the department's central abuse  
 3770 registry and criminal records correspondence checks under s.  
 3771 39.0138 through the Department of Law Enforcement on the  
 3772 intended adoptive parents;

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3773 (c) An assessment of the physical environment of the home;  
 3774 (d) A determination of the financial security of the  
 3775 intended adoptive parents;  
 3776 (e) Documentation of counseling and education of the  
 3777 intended adoptive parents on adoptive parenting;  
 3778 (f) Documentation that information on adoption and the  
 3779 adoption process has been provided to the intended adoptive  
 3780 parents;  
 3781 (g) Documentation that information on support services  
 3782 available in the community has been provided to the intended  
 3783 adoptive parents; and  
 3784 (h) A copy of each signed acknowledgment of receipt of  
 3785 disclosure required by s. 63.085.

3786 If the preliminary home study is favorable, a minor may be  
 3787 placed in the home pending entry of the judgment of adoption. A  
 3788 minor may not be placed in the home if the preliminary home  
 3789 study is unfavorable. If the preliminary home study is  
 3790 unfavorable, the adoption entity may, within 20 days after  
 3791 receipt of a copy of the written recommendation, petition the  
 3792 court to determine the suitability of the intended adoptive  
 3793 home. A determination as to suitability under this subsection  
 3794 does not act as a presumption of suitability at the final  
 3795 hearing. In determining the suitability of the intended adoptive  
 3796 home, the court must consider the totality of the circumstances  
 3797 in the home. A minor may not be placed in a home in which there  
 3798 resides any person determined by the court to be a sexual  
 3799 predator as defined in s. 775.21 or to have been convicted of an  
 3800 offense listed in s. 63.089(4)(b)2.  
 3801

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3802 Section 69. For the purpose of incorporating the amendments  
 3803 made by this act to sections 775.21 and 943.0435, Florida  
 3804 Statutes, in references thereto, paragraph (i) of subsection (3)  
 3805 and subsection (6) of section 68.07, Florida Statutes, are  
 3806 reenacted to read:

3807 68.07 Change of name.—

3808 (3) Each petition shall be verified and show:

3809 (i) Whether the petitioner has ever been required to  
 3810 register as a sexual predator under s. 775.21 or as a sexual  
 3811 offender under s. 943.0435.

3812 (6) The clerk of the court must, within 5 business days  
 3813 after the filing of the final judgment, send a report of the  
 3814 judgment to the Department of Law Enforcement on a form to be  
 3815 furnished by that department. If the petitioner is required to  
 3816 register as a sexual predator or a sexual offender pursuant to  
 3817 s. 775.21 or s. 943.0435, the clerk of court shall  
 3818 electronically notify the Department of Law Enforcement of the  
 3819 name change, in a manner prescribed by that department, within 2  
 3820 business days after the filing of the final judgment. The  
 3821 Department of Law Enforcement must send a copy of the report to  
 3822 the Department of Highway Safety and Motor Vehicles, which may  
 3823 be delivered by electronic transmission. The report must contain  
 3824 sufficient information to identify the petitioner, including the  
 3825 results of the criminal history records check if applicable, the  
 3826 new name of the petitioner, and the file number of the judgment.  
 3827 The Department of Highway Safety and Motor Vehicles shall  
 3828 monitor the records of any sexual predator or sexual offender  
 3829 whose name has been provided to it by the Department of Law  
 3830 Enforcement. If the sexual predator or sexual offender does not

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3831 obtain a replacement driver license or identification card  
 3832 within the required time as specified in s. 775.21 or s.  
 3833 943.0435, the Department of Highway Safety and Motor Vehicles  
 3834 shall notify the Department of Law Enforcement. The Department  
 3835 of Law Enforcement shall notify applicable law enforcement  
 3836 agencies of the predator's or offender's failure to comply with  
 3837 registration requirements. Any information retained by the  
 3838 Department of Law Enforcement and the Department of Highway  
 3839 Safety and Motor Vehicles may be revised or supplemented by said  
 3840 departments to reflect changes made by the final judgment. With  
 3841 respect to a person convicted of a felony in another state or of  
 3842 a federal offense, the Department of Law Enforcement must send  
 3843 the report to the respective state's office of law enforcement  
 3844 records or to the office of the Federal Bureau of Investigation.  
 3845 The Department of Law Enforcement may forward the report to any  
 3846 other law enforcement agency it believes may retain information  
 3847 related to the petitioner.

3848 Section 70. For the purpose of incorporating the amendments  
 3849 made by this act to sections 775.21 and 943.0435, Florida  
 3850 Statutes, in references thereto, paragraph (b) of subsection (1)  
 3851 of section 92.55, Florida Statutes, is reenacted to read:

3852 92.55 Judicial or other proceedings involving victim or  
 3853 witness under the age of 18, a person who has an intellectual  
 3854 disability, or a sexual offense victim or witness; special  
 3855 protections; use of therapy animals or facility dogs.—

3856 (1) For purposes of this section, the term:

3857 (b) "Sexual offense" means any offense specified in s.  
 3858 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

3859 Section 71. For the purpose of incorporating the amendment

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3860 made by this act to section 16.56, Florida Statutes, in a  
 3861 reference thereto, paragraph (b) of subsection (1) of section  
 3862 92.605, Florida Statutes, is reenacted to read:

3863 92.605 Production of certain records by Florida businesses  
 3864 and out-of-state corporations.—

3865 (1) For the purposes of this section, the term:

3866 (b) "Applicant" means a law enforcement officer who is  
 3867 seeking a court order or subpoena under s. 16.56, s. 27.04, s.  
 3868 905.185, or s. 914.04 or who is issued a search warrant under s.  
 3869 933.01, or anyone who is authorized to issue a subpoena under  
 3870 the Florida Rules of Criminal Procedure.

3871 Section 72. For the purpose of incorporating the amendments  
 3872 made by this act to sections 775.21, 943.0435, and 944.607,  
 3873 Florida Statutes, in references thereto, subsection (3) of  
 3874 section 322.141, Florida Statutes, is reenacted to read:

3875 322.141 Color or markings of certain licenses or  
 3876 identification cards.—

3877 (3) All licenses for the operation of motor vehicles or  
 3878 identification cards originally issued or reissued by the  
 3879 department to persons who are designated as sexual predators  
 3880 under s. 775.21 or subject to registration as sexual offenders  
 3881 under s. 943.0435 or s. 944.607, or who have a similar  
 3882 designation or are subject to a similar registration under the  
 3883 laws of another jurisdiction, shall have on the front of the  
 3884 license or identification card the following:

3885 (a) For a person designated as a sexual predator under s.  
 3886 775.21 or who has a similar designation under the laws of  
 3887 another jurisdiction, the marking "SEXUAL PREDATOR."

3888 (b) For a person subject to registration as a sexual

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3889 offender under s. 943.0435 or s. 944.607, or subject to a  
 3890 similar registration under the laws of another jurisdiction, the  
 3891 marking "943.0435, F.S."

3892 Section 73. For the purpose of incorporating the amendment  
 3893 made by this act to section 775.0877, Florida Statutes, in a  
 3894 reference thereto, paragraph (h) of subsection (2) of section  
 3895 381.004, Florida Statutes, is reenacted to read:

3896 381.004 HIV testing.—

3897 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT;  
 3898 RESULTS; COUNSELING; CONFIDENTIALITY.—

3899 (h) Paragraph (a) does not apply:

3900 1. When testing for sexually transmissible diseases is  
 3901 required by state or federal law, or by rule, including the  
 3902 following situations:

3903 a. HIV testing pursuant to s. 796.08 of persons convicted  
 3904 of prostitution or of procuring another to commit prostitution.

3905 b. HIV testing of inmates pursuant to s. 945.355 before  
 3906 their release from prison by reason of parole, accumulation of  
 3907 gain-time credits, or expiration of sentence.

3908 c. Testing for HIV by a medical examiner in accordance with  
 3909 s. 406.11.

3910 d. HIV testing of pregnant women pursuant to s. 384.31.

3911 2. To those exceptions provided for blood, plasma, organs,  
 3912 skin, semen, or other human tissue pursuant to s. 381.0041.

3913 3. For the performance of an HIV-related test by licensed  
 3914 medical personnel in bona fide medical emergencies if the test  
 3915 results are necessary for medical diagnostic purposes to provide  
 3916 appropriate emergency care or treatment to the person being  
 3917 tested and the patient is unable to consent, as supported by

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documentation in the medical record. Notification of test results in accordance with paragraph (c) is required.

4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, providing notification would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Notification of test results in accordance with paragraph (c) is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without notification.

5. If HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.

6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to s. 775.0877, s. 951.27, or s. 960.003; however, the results of an HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003.

7. If an HIV test is mandated by court order.

8. For epidemiological research pursuant to s. 381.0031, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known

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and may not be retrieved by the researcher.

9. If human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 765.5185 or enucleation of the eyes as authorized by s. 765.519.

10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment, within the scope of practice, or during the course of providing emergency medical assistance to the individual. The term "medical personnel" includes a licensed or certified health care professional; an employee of a health care professional or health care facility; employees of a laboratory licensed under chapter 483; personnel of a blood bank or plasma center; a medical student or other student who is receiving training as a health care professional at a health care facility; and a paramedic or emergency medical technician certified by the department to perform life-support procedures under s. 401.23.

a. The occurrence of a significant exposure shall be documented by medical personnel under the supervision of a licensed physician and recorded only in the personnel record of the medical personnel.

b. Costs of an HIV test shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment may not be borne by the medical personnel or the employer of the medical personnel.

c. In order to use the provisions of this subparagraph, the medical personnel must be tested for HIV pursuant to this

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section or provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.

d. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

e. If the source of the exposure is not available and will not voluntarily present himself or herself to a health facility to be tested for HIV, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

11. For the performance of an HIV test upon an individual who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency.

a. The occurrence of a significant exposure shall be

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documented by medical personnel under the supervision of a licensed physician and recorded in the medical record of the nonmedical personnel.

b. Costs of any HIV test shall be borne by the nonmedical personnel or the employer of the nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment may not be borne by the nonmedical personnel or the employer of the nonmedical personnel.

c. In order to use the provisions of this subparagraph, the nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.

d. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

e. If the source of the exposure is not available and will not voluntarily present himself or herself to a health facility to be tested for HIV, the nonmedical personnel or the employer of the nonmedical personnel acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source

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of the exposure and to the person who experienced the exposure.

12. For the performance of an HIV test by the medical examiner or attending physician upon an individual who expired or could not be resuscitated while receiving emergency medical assistance or care and who was the source of a significant exposure to medical or nonmedical personnel providing such assistance or care.

a. HIV testing may be conducted only after appropriate medical personnel under the supervision of a licensed physician documents in the medical record of the medical personnel or nonmedical personnel that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control and Prevention guidelines on HIV postexposure prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

b. Costs of an HIV test performed under this subparagraph may not be charged to the deceased or to the family of the deceased person.

c. For this subparagraph to be applicable, the medical personnel or nonmedical personnel must be tested for HIV under this section or must provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.

d. A person who receives the results of an HIV test pursuant to this subparagraph shall comply with paragraph (e).

13. For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of

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a hospitalized infant as necessary to provide appropriate care and treatment of the infant if, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant must reflect the reason consent of the parent was not initially obtained. Test results shall be provided to the parent when the parent is located.

14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive.

15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure.

Section 74. For the purpose of incorporating the amendment made by this act to section 775.0877, Florida Statutes, in references thereto, paragraph (c) of subsection (1) and subsection (3) of section 384.29, Florida Statutes, are reenacted to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(c) When made to medical personnel, appropriate state agencies, public health agencies, or courts of appropriate jurisdiction, to enforce the provisions of this chapter or s. 775.0877 and related rules;

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(3) No employee of the department or its authorized representatives shall be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of a person examined or treated for a sexually transmissible disease by the department or its authorized representatives, or of the existence or contents of such reports received from a private physician or private health facility, without the consent of the person examined and treated for such diseases, except in proceedings under ss. 384.27 and 384.28 or involving offenders pursuant to s. 775.0877.

Section 75. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in references thereto, paragraphs (b) and (e) of subsection (2) of section 390.01114, Florida Statutes, are reenacted to read:

390.01114 Parental Notice of Abortion Act.—

(2) DEFINITIONS.—As used in this section, the term:

(b) "Child abuse" means abandonment, abuse, harm, mental injury, neglect, physical injury, or sexual abuse of a child as those terms are defined in ss. 39.01, 827.04, and 984.03.

(e) "Sexual abuse" has the meaning ascribed in s. 39.01.

Section 76. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in references thereto, paragraph (h) of subsection (4) and subsections (7) and (9) of section 393.067, Florida Statutes, are reenacted to read:

393.067 Facility licensure.—

(4) The application shall be under oath and shall contain the following:

(h) Certification that the staff of the facility or program

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will receive training to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients.

(7) The agency shall adopt rules establishing minimum standards for facilities and programs licensed under this section, including rules requiring facilities and programs to train staff to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients, minimum standards of quality and adequacy of client care, incident reporting requirements, and uniform firesafety standards established by the State Fire Marshal which are appropriate to the size of the facility or of the component centers or units of the program.

(9) The agency may conduct unannounced inspections to determine compliance by foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs with the applicable provisions of this chapter and the rules adopted pursuant hereto, including the rules adopted for training staff of a facility or a program to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients. The facility or program shall make copies of inspection reports available to the public upon request.

Section 77. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is reenacted to read:

394.495 Child and adolescent mental health system of care;

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programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(71)(g).

Section 78. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 394.9125, Florida Statutes, is reenacted to read:

394.9125 State attorney; authority to refer a person for civil commitment.—

(2) A state attorney may refer a person to the department for civil commitment proceedings if the person:

(a) Is required to register as a sexual offender pursuant to s. 943.0435;

Section 79. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 943.04354, Florida Statutes, in references thereto, paragraphs (a) and (c) of subsection (2) of section 397.4872, Florida Statutes, are reenacted to read:

397.4872 Exemption from disqualification; publication.—

(2) The department may exempt a person from ss. 397.487(6) and 397.4871(5) if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:

(a) Sexual predator pursuant to s. 775.21;

(c) Sexual offender pursuant to s. 943.0435, unless the

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requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

Section 80. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 943.04354, Florida Statutes, in references thereto, paragraph (b) of subsection (4) of section 435.07, Florida Statutes, is reenacted to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(b) Disqualification from employment under this chapter may not be removed from, nor may an exemption be granted to, any person who is a:

1. Sexual predator as designated pursuant to s. 775.21;

2. Career offender pursuant to s. 775.261; or

3. Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

Section 81. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (9) of section 507.07, Florida Statutes, is reenacted to read:

507.07 Violations.—It is a violation of this chapter:

(9) For a mover or a moving broker to knowingly refuse or fail to disclose in writing to a customer before a household

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move that the mover, or an employee or subcontractor of the mover or moving broker, who has access to the dwelling or property of the customer, including access to give a quote for the move, has been convicted of a felony listed in s. 775.21(4)(a)1. or convicted of a similar offense of another jurisdiction, regardless of when such felony offense was committed.

Section 82. For the purpose of incorporating the amendment made by this act to section 895.02, Florida Statutes, in a reference thereto, paragraph (g) of subsection (3) of section 655.50, Florida Statutes, is reenacted to read:

655.50 Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.—

(3) As used in this section, the term:

(g) "Specified unlawful activity" means "racketeering activity" as defined in s. 895.02.

Section 83. For the purpose of incorporating the amendment made by this act to section 784.046, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section 741.313, Florida Statutes, is reenacted to read:

741.313 Unlawful action against employees seeking protection.—

(1) As used in this section, the term:

(e) "Sexual violence" means sexual violence, as defined in s. 784.046, or any crime the underlying factual basis of which has been found by a court to include an act of sexual violence.

Section 84. For the purpose of incorporating the amendment made by this act to section 947.1405, Florida Statutes, in a reference thereto, paragraph (j) of subsection (4) of section

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775.084, Florida Statutes, is reenacted to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.—

(4)

(j) The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

Section 85. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, subsection (2) of section 775.0862, Florida Statutes, is reenacted to read:

775.0862 Sexual offenses against students by authority figures; reclassification.—

(2) The felony degree of a violation of an offense listed in s. 943.0435(1)(h)1.a., unless the offense is a violation of s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.

Section 86. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 944.607, Florida Statutes, in references thereto, paragraphs (e) and (f) of subsection (4) of section 775.13, Florida Statutes, are reenacted to read:

775.13 Registration of convicted felons, exemptions; penalties.—

(4) This section does not apply to an offender:

(e) Who is a sexual predator and has registered as required

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under s. 775.21;

(f) Who is a sexual offender and has registered as required in s. 943.0435 or s. 944.607; or

Section 87. For the purpose of incorporating the amendments made by this act to sections 943.0435, 944.607, 947.1405, and 948.30, Florida Statutes, in references thereto, paragraph (b) of subsection (3), paragraph (d) of subsection (5), paragraph (f) of subsection (6), and paragraph (c) of subsection (10) of section 775.21, Florida Statutes, are reenacted to read:

775.21 The Florida Sexual Predators Act.—

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained

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and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated as a sexual predator as follows:

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by



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operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) REGISTRATION.—

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety

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and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or an identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(10) PENALTIES.—

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records

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information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 88. For the purpose of incorporating the amendments made by this act to sections 943.0435, 944.606, and 944.607, Florida Statutes, in references thereto, subsection (2) of section 775.24, Florida Statutes, is reenacted to read:

775.24 Duty of the court to uphold laws governing sexual predators and sexual offenders.—

(2) If a person meets the criteria in this chapter for designation as a sexual predator or meets the criteria in s. 943.0435, s. 944.606, s. 944.607, or any other law for classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

(a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;

(b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or

(c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as such duty or authority relates to sexual predators or sexual offenders.

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Section 89. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, 944.606, and 944.607, Florida Statutes, in references thereto, section 775.25, Florida Statutes, is reenacted to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator or sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 90. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 944.607, Florida Statutes, in references thereto, paragraph (b) of subsection (3) of section 775.261, Florida Statutes, is reenacted to read:

775.261 The Florida Career Offender Registration Act.—

(3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

(b) This section does not apply to any person who has been designated as a sexual predator and required to register under

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s. 775.21 or who is required to register as a sexual offender under s. 943.0435 or s. 944.607. However, if a person is no longer required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435 or s. 944.607, the person must register as a career offender under this section if the person is otherwise designated as a career offender as provided in this section.

Section 91. For the purpose of incorporating the amendment made by this act to section 847.001, Florida Statutes, in a reference thereto, paragraph (d) of subsection (2) of section 784.049, Florida Statutes, is reenacted to read:

784.049 Sexual cyberharassment.—

(2) As used in this section, the term:

(d) "Sexually explicit image" means any image depicting nudity, as defined in s. 847.001, or depicting a person engaging in sexual conduct, as defined in s. 847.001.

Section 92. For the purpose of incorporating the amendment made by this act to section 794.0115, Florida Statutes, in references thereto, paragraph (a) of subsection (2) and subsections (3), (4), and (5) of section 794.011, Florida Statutes, are reenacted to read:

794.011 Sexual battery.—

(2) (a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. 775.082 and 921.141.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the

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process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(4) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was

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previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);
  2. Section 787.01(3)(a)2. or 3.;
  3. Section 787.02(3)(a)2. or 3.;
  4. Section 800.04;
  5. Section 825.1025;
  6. Section 847.0135(5); or
  7. This chapter, excluding subsection (10) of this section.
- (e) The following circumstances apply to paragraphs (a)-(d):
1. The victim is physically helpless to resist.
  2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.
  3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.
  4. The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.
  5. The victim is mentally defective, and the offender has

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reason to believe this or has actual knowledge of this fact.

6. The victim is physically incapacitated.
  7. The offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.
- (5)(a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.
- (b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.
- (c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical

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force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);

2. Section 787.01(3)(a)2. or 3.;

3. Section 787.02(3)(a)2. or 3.;

4. Section 800.04;

5. Section 825.1025;

6. Section 847.0135(5); or

7. This chapter, excluding subsection (10) of this section.

Section 93. For the purpose of incorporating the amendment made by this act to section 92.56, Florida Statutes, in a reference thereto, section 794.03, Florida Statutes, is reenacted to read:

794.03 Unlawful to publish or broadcast information identifying sexual offense victim.—No person shall print, publish, or broadcast, or cause or allow to be printed, published, or broadcast, in any instrument of mass communication

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the name, address, or other identifying fact or information of the victim of any sexual offense within this chapter, except as provided in s. 119.071(2)(h) or unless the court determines that such information is no longer confidential and exempt pursuant to s. 92.56. An offense under this section shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 94. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (1) of section 794.075, Florida Statutes, is reenacted to read:

794.075 Sexual predators; erectile dysfunction drugs.—

(1) A person may not possess a prescription drug, as defined in s. 499.003(40), for the purpose of treating erectile dysfunction if the person is designated as a sexual predator under s. 775.21.

Section 95. For the purpose of incorporating the amendment made by this act to section 960.03, Florida Statutes, in references thereto, paragraph (b) of subsection (1) and subsections (2) and (3) of section 847.002, Florida Statutes, are reenacted to read:

847.002 Child pornography prosecutions.—

(1) Any law enforcement officer who, pursuant to a criminal investigation, recovers images or movies of child pornography shall:

(b) Request the law enforcement agency contact information from the Child Victim Identification Program for any images or movies recovered which contain an identified victim of child pornography as defined in s. 960.03.

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(2) Any law enforcement officer submitting a case for prosecution which involves the production, promotion, or possession of child pornography shall submit to the designated prosecutor the law enforcement agency contact information provided by the Child Victim Identification Program at the National Center for Missing and Exploited Children, for any images or movies involved in the case which contain the depiction of an identified victim of child pornography as defined in s. 960.03.

(3) In every filed case involving an identified victim of child pornography, as defined in s. 960.03, the prosecuting agency shall enter the following information into the Victims in Child Pornography Tracking Repeat Exploitation database maintained by the Office of the Attorney General:

(a) The case number and agency file number.

(b) The named defendant.

(c) The circuit court division and county.

(d) Current court dates and the status of the case.

(e) Contact information for the prosecutor assigned.

(f) Verification that the prosecutor is or is not in possession of a victim impact statement and will use the statement in sentencing.

Section 96. For the purpose of incorporating the amendment made by this act to section 847.001, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 847.012, Florida Statutes, is reenacted to read:

847.012 Harmful materials; sale or distribution to minors or using minors in production prohibited; penalty.—

(3) A person may not knowingly sell, rent, or loan for

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monetary consideration to a minor:

(b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording that contains any matter defined in s. 847.001, explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors.

Section 97. For the purpose of incorporating the amendment made by this act to section 92.56, Florida Statutes, in a reference thereto, subsection (3) of section 847.01357, Florida Statutes, is reenacted to read:

847.01357 Exploited children's civil remedy.—

(3) Any victim who has a bona fide claim under this section shall, upon request, be provided a pseudonym, pursuant to s. 92.56(3), which shall be issued and maintained by the Department of Legal Affairs for use in all legal pleadings. This identifier shall be fully recognized in all courts in this state as a valid legal identity.

Section 98. For the purpose of incorporating the amendment made by this act to section 847.001, Florida Statutes, in a reference thereto, subsections (2) and (3) of section 847.0138, Florida Statutes, are reenacted to read:

847.0138 Transmission of material harmful to minors to a minor by electronic device or equipment prohibited; penalties.—

(2) Notwithstanding ss. 847.012 and 847.0133, any person who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The provisions of this section do not apply to subscription-based transmissions such as list servers.

Section 99. For the purpose of incorporating the amendments made by this act to sections 16.56 and 895.02, Florida Statutes, in references thereto, paragraph (h) of subsection (2) and subsection (10) of section 896.101, Florida Statutes, are reenacted to read:

896.101 Florida Money Laundering Act; definitions; penalties; injunctions; seizure warrants; immunity.—

(2) As used in this section, the term:

(h) "Specified unlawful activity" means any "racketeering activity" as defined in s. 895.02.

(10) Any financial institution, licensed money services business, or other person served with and complying with the terms of a warrant, temporary injunction, or other court order, including any subpoena issued under s. 16.56 or s. 27.04, obtained in furtherance of an investigation of any crime in this section, including any crime listed as specified unlawful activity under this section or any felony violation of chapter 560, has immunity from criminal liability and is not liable to any person for any lawful action taken in complying with the

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warrant, temporary injunction, or other court order, including any subpoena issued under s. 16.56 or s. 27.04. If any subpoena issued under s. 16.56 or s. 27.04 contains a nondisclosure provision, any financial institution, licensed money services business, employee or officer of a financial institution or licensed money services business, or any other person may not notify, directly or indirectly, any customer of that financial institution or money services business whose records are being sought by the subpoena, or any other person named in the subpoena, about the existence or the contents of that subpoena or about information that has been furnished to the state attorney or statewide prosecutor who issued the subpoena or other law enforcement officer named in the subpoena in response to the subpoena.

Section 100. For the purpose of incorporating the amendments made by this act to sections 775.21 and 948.06, Florida Statutes, in references thereto, paragraphs (b) and (c) of subsection (1) of section 903.0351, Florida Statutes, are reenacted to read:

903.0351 Restrictions on pretrial release pending probation-violation hearing or community-control-violation hearing.—

(1) In the instance of an alleged violation of felony probation or community control, bail or any other form of pretrial release shall not be granted prior to the resolution of the probation-violation hearing or the community-control-violation hearing to:

(b) A person who is on felony probation or community control for any offense committed on or after the effective date

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of this act and who is arrested for a qualifying offense as defined in s. 948.06(8)(c); or

(c) A person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in s. 775.084(1)(b), a three-time violent felony offender as defined in s. 775.084(1)(c), or a sexual predator under s. 775.21, and who is arrested for committing a qualifying offense as defined in s. 948.06(8)(c) on or after the effective date of this act.

Section 101. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraph (m) of subsection (2) of section 903.046, Florida Statutes, is reenacted to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(m) Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under chapter 316, is required to register as a sexual offender under s. 943.0435 or a sexual predator under s. 775.21; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

Section 102. For the purpose of incorporating the amendment made by this act to section 895.02, Florida Statutes, in a reference thereto, subsection (3) of section 905.34, Florida Statutes, is reenacted to read:

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905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

(3) Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(8)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

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4788 Section 103. For the purpose of incorporating the  
 4789 amendments made by this act to sections 775.21 and 847.0135,  
 4790 Florida Statutes, in references thereto, paragraph (g) of  
 4791 subsection (3) of section 921.0022, Florida Statutes, is  
 4792 reenacted to read:  
 4793 921.0022 Criminal Punishment Code; offense severity ranking  
 4794 chart.—  
 4795 (3) OFFENSE SEVERITY RANKING CHART  
 4796 (g) LEVEL 7  
 4797  
 4798

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

4799  
4800  
4801  
4802

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327.35(3)(c)2. 3rd Vessel BUI resulting in serious  
bodily injury.  
 4803  
 402.319(2) 2nd Misrepresentation and  
negligence or intentional act  
resulting in great bodily harm,  
permanent disfiguration,  
permanent disability, or death.  
 4804  
 409.920 3rd Medicaid provider fraud;  
(2)(b)1.a. \$10,000 or less.  
 4805  
 409.920 2nd Medicaid provider fraud; more  
(2)(b)1.b. than \$10,000, but less than  
\$50,000.  
 4806  
 456.065(2) 3rd Practicing a health care  
profession without a license.  
 4807  
 456.065(2) 2nd Practicing a health care  
profession without a license  
which results in serious bodily  
injury.  
 4808  
 458.327(1) 3rd Practicing medicine without a  
license.  
 4809  
 459.013(1) 3rd Practicing osteopathic medicine  
without a license.

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4810 460.411(1) 3rd Practicing chiropractic  
medicine without a license.

4811 461.012(1) 3rd Practicing podiatric medicine  
without a license.

4812 462.17 3rd Practicing naturopathy without  
a license.

4813 463.015(1) 3rd Practicing optometry without a  
license.

4814 464.016(1) 3rd Practicing nursing without a  
license.

4815 465.015(2) 3rd Practicing pharmacy without a  
license.

4816 466.026(1) 3rd Practicing dentistry or dental  
hygiene without a license.

4817 467.201 3rd Practicing midwifery without a  
license.

4818 468.366 3rd Delivering respiratory care  
services without a license.

4819 483.828(1) 3rd Practicing as clinical

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laboratory personnel without a  
license.

4820 483.901(7) 3rd Practicing medical physics  
without a license.

4821 484.013(1)(c) 3rd Preparing or dispensing optical  
devices without a prescription.

4822 484.053 3rd Dispensing hearing aids without  
a license.

4823 494.0018(2) 1st Conviction of any violation of  
chapter 494 in which the total  
money and property unlawfully  
obtained exceeded \$50,000 and  
there were five or more  
victims.

4824 560.123(8)(b)1. 3rd Failure to report currency or  
payment instruments exceeding  
\$300 but less than \$20,000 by a  
money services business.

4825 560.125(5)(a) 3rd Money services business by  
unauthorized person, currency  
or payment instruments  
exceeding \$300 but less than  
\$20,000.

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4826	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
4827	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
4828	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
4829	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
4830	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
4831	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another

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			(manslaughter).
4832	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
4833	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
4834	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
4835	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
4836	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
4837	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
4838	784.048(7)	3rd	Aggravated stalking; violation of court order.
4839			

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	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
4840			
	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
4841			
	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
4842			
	784.081(1)	1st	Aggravated battery on specified official or employee.
4843			
	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
4844			
	784.083(1)	1st	Aggravated battery on code inspector.
4845			
	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
4846			
	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

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4847	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
4848			
	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
4849			
	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
4850			
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
4851			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
4852			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
4853			
	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the

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penalty enhancements provided  
for in s. 874.04.

4854

794.08(4)

3rd

Female genital mutilation;  
consent by a parent, guardian,  
or a person in custodial  
authority to a victim younger  
than 18 years of age.

4855

796.05(1)

1st

Live on earnings of a  
prostitute; 2nd offense.

4856

796.05(1)

1st

Live on earnings of a  
prostitute; 3rd and subsequent  
offense.

4857

800.04(5)(c)1.

2nd

Lewd or lascivious molestation;  
victim younger than 12 years of  
age; offender younger than 18  
years of age.

4858

800.04(5)(c)2.

2nd

Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years of  
age; offender 18 years of age  
or older.

4859

800.04(5)(e)

1st

Lewd or lascivious molestation;  
victim 12 years of age or older

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but younger than 16 years;  
offender 18 years or older;  
prior conviction for specified  
sex offense.

4860

806.01(2)

2nd

Maliciously damage structure by  
fire or explosive.

4861

810.02(3)(a)

2nd

Burglary of occupied dwelling;  
unarmed; no assault or battery.

4862

810.02(3)(b)

2nd

Burglary of unoccupied  
dwelling; unarmed; no assault  
or battery.

4863

810.02(3)(d)

2nd

Burglary of occupied  
conveyance; unarmed; no assault  
or battery.

4864

810.02(3)(e)

2nd

Burglary of authorized  
emergency vehicle.

4865

812.014(2)(a)1.

1st

Property stolen, valued at  
\$100,000 or more or a  
semitrailer deployed by a law  
enforcement officer; property  
stolen while causing other  
property damage; 1st degree  
grand theft.

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4866 812.014 (2) (b) 2. 2nd Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

4867 812.014 (2) (b) 3. 2nd Property stolen, emergency medical equipment; 2nd degree grand theft.

4868 812.014 (2) (b) 4. 2nd Property stolen, law enforcement equipment from authorized emergency vehicle.

4869 812.0145 (2) (a) 1st Theft from person 65 years of age or older; \$50,000 or more.

4870 812.019 (2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

4871 812.131 (2) (a) 2nd Robbery by sudden snatching.

4872 812.133 (2) (b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

4873 817.034 (4) (a) 1. 1st Communications fraud, value greater than \$50,000.

4874

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817.234 (8) (a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

4875 817.234 (9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

4876 817.234 (11) (c) 1st Insurance fraud; property value \$100,000 or more.

4877 817.2341 (2) (b) & (3) (b) 1st Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

4878 817.535 (2) (a) 3rd Filing false lien or other unauthorized document.

4879 817.611 (2) (b) 2nd Traffic in or possess 15 to 49 counterfeit credit cards or related documents.

4880 825.102 (3) (b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or

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				disfigurement.
4881	825.103(3)(b)	2nd		Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
4882	827.03(2)(b)	2nd		Neglect of a child causing great bodily harm, disability, or disfigurement.
4883	827.04(3)	3rd		Impregnation of a child under 16 years of age by person 21 years of age or older.
4884	837.05(2)	3rd		Giving false information about alleged capital felony to a law enforcement officer.
4885	838.015	2nd		Bribery.
4886	838.016	2nd		Unlawful compensation or reward for official behavior.
4887	838.021(3)(a)	2nd		Unlawful harm to a public servant.
4888	838.22	2nd		Bid tampering.
4889				

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	843.0855(2)	3rd		Impersonation of a public officer or employee.
4890	843.0855(3)	3rd		Unlawful simulation of legal process.
4891	843.0855(4)	3rd		Intimidation of a public officer or employee.
4892	847.0135(3)	3rd		Solicitation of a child, via a computer service, to commit an unlawful sex act.
4893	847.0135(4)	2nd		Traveling to meet a minor to commit an unlawful sex act.
4894	872.06	2nd		Abuse of a dead human body.
4895	874.05(2)(b)	1st		Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
4896	874.10	1st, PBL		Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
4897	893.13(1)(c)1.	1st		Sell, manufacture, or deliver

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cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

4898

893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

4899

893.13(4)(a) 1st Use or hire of minor; deliver to minor other controlled substance.

4900

893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

4901

893.135 1st Trafficking in cocaine, more

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(1)(b)1.a. than 28 grams, less than 200 grams.

4902

893.135 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

4903

893.135 1st Trafficking in hydrocodone, 14 grams or more, less than 28 grams.

4904

893.135 1st Trafficking in hydrocodone, 28 grams or more, less than 50 grams.

4905

893.135 1st Trafficking in oxycodone, 7 grams or more, less than 14 grams.

4906

893.135 1st Trafficking in oxycodone, 14 grams or more, less than 25 grams.

4907

893.135 1st Trafficking in fentanyl, 4 grams or more, less than 14 grams.

4908

893.135 1st Trafficking in phencyclidine, 28 grams or more, less than 200

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grams.

4909

893.135(1)(e)1. 1st Trafficking in methaqualone,  
200 grams or more, less than 5  
kilograms.

4910

893.135(1)(f)1. 1st Trafficking in amphetamine, 14  
grams or more, less than 28  
grams.

4911

893.135 1st Trafficking in flunitrazepam, 4  
(1)(g)1.a. grams or more, less than 14  
grams.

4912

893.135 1st Trafficking in gamma-  
(1)(h)1.a. hydroxybutyric acid (GHB), 1  
kilogram or more, less than 5  
kilograms.

4913

893.135 1st Trafficking in 1,4-Butanediol,  
(1)(j)1.a. 1 kilogram or more, less than 5  
kilograms.

4914

893.135 1st Trafficking in Phenethylamines,  
(1)(k)2.a. 10 grams or more, less than 200  
grams.

4915

893.135 1st Trafficking in synthetic  
(1)(m)2.a. cannabinoids, 280 grams or

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more, less than 500 grams.

4916

893.135 1st Trafficking in synthetic  
(1)(m)2.b. cannabinoids, 500 grams or  
more, less than 1,000 grams.

4917

893.135 1st Trafficking in n-benzyl  
(1)(n)2.a. phenethylamines, 14 grams or  
more, less than 100 grams.

4918

893.1351(2) 2nd Possession of place for  
trafficking in or manufacturing  
of controlled substance.

4919

896.101(5)(a) 3rd Money laundering, financial  
transactions exceeding \$300 but  
less than \$20,000.

4920

896.104(4)(a)1. 3rd Structuring transactions to  
evade reporting or registration  
requirements, financial  
transactions exceeding \$300 but  
less than \$20,000.

4921

943.0435(4)(c) 2nd Sexual offender vacating  
permanent residence; failure to  
comply with reporting  
requirements.

4922

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	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
4923			
	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
4924			
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
4925			
	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
4926			
	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
4927			
	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
4928			
	944.607(12)	3rd	Failure to report or providing

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			false information about a sexual offender; harbor or conceal a sexual offender.
4929			
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
4930			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
4931			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
4932			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
4933			
4934	Section 104. For the purpose of incorporating the amendment		
4935	made by this act to section 775.21, Florida Statutes, in a		
4936	reference thereto, paragraph (o) of subsection (6) of section		
4937	921.141, Florida Statutes, is reenacted to read:		

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4938 921.141 Sentence of death or life imprisonment for capital  
4939 felonies; further proceedings to determine sentence.—

4940 (6) AGGRAVATING FACTORS.—Aggravating factors shall be  
4941 limited to the following:

4942 (o) The capital felony was committed by a person designated  
4943 as a sexual predator pursuant to s. 775.21 or a person  
4944 previously designated as a sexual predator who had the sexual  
4945 predator designation removed.

4946 Section 105. For the purpose of incorporating the  
4947 amendments made by this act to sections 775.21, 944.606, and  
4948 944.607, Florida Statutes, in references thereto, subsection  
4949 (3), paragraph (a) of subsection (4), and subsection (5) of  
4950 section 943.0435, Florida Statutes, are reenacted to read:

4951 943.0435 Sexual offenders required to register with the  
4952 department; penalty.—

4953 (3) Within 48 hours after the report required under  
4954 subsection (2), a sexual offender shall report in person at a  
4955 driver license office of the Department of Highway Safety and  
4956 Motor Vehicles, unless a driver license or identification card  
4957 that complies with the requirements of s. 322.141(3) was  
4958 previously secured or updated under s. 944.607. At the driver  
4959 license office the sexual offender shall:

4960 (a) If otherwise qualified, secure a Florida driver  
4961 license, renew a Florida driver license, or secure an  
4962 identification card. The sexual offender shall identify himself  
4963 or herself as a sexual offender who is required to comply with  
4964 this section and shall provide proof that the sexual offender  
4965 reported as required in subsection (2). The sexual offender  
4966 shall provide any of the information specified in subsection

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4967 (2), if requested. The sexual offender shall submit to the  
4968 taking of a photograph for use in issuing a driver license,  
4969 renewed license, or identification card, and for use by the  
4970 department in maintaining current records of sexual offenders.

4971 (b) Pay the costs assessed by the Department of Highway  
4972 Safety and Motor Vehicles for issuing or renewing a driver  
4973 license or identification card as required by this section. The  
4974 driver license or identification card issued must be in  
4975 compliance with s. 322.141(3).

4976 (c) Provide, upon request, any additional information  
4977 necessary to confirm the identity of the sexual offender,  
4978 including a set of fingerprints.

4979 (4) (a) Each time a sexual offender's driver license or  
4980 identification card is subject to renewal, and, without regard  
4981 to the status of the offender's driver license or identification  
4982 card, within 48 hours after any change in the offender's  
4983 permanent, temporary, or transient residence or change in the  
4984 offender's name by reason of marriage or other legal process,  
4985 the offender shall report in person to a driver license office,  
4986 and is subject to the requirements specified in subsection (3).  
4987 The Department of Highway Safety and Motor Vehicles shall  
4988 forward to the department all photographs and information  
4989 provided by sexual offenders. Notwithstanding the restrictions  
4990 set forth in s. 322.142, the Department of Highway Safety and  
4991 Motor Vehicles may release a reproduction of a color-photograph  
4992 or digital-image license to the Department of Law Enforcement  
4993 for purposes of public notification of sexual offenders as  
4994 provided in this section and ss. 943.043 and 944.606. A sexual  
4995 offender who is unable to secure or update a driver license or

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an identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this paragraph do not negate the requirement for a sexual offender to obtain a Florida driver license or an identification card as required in this section.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

Section 106. For the purpose of incorporating the amendments made by this act to sections 943.0435, 944.606, and 944.607, Florida Statutes, in references thereto, subsection (2) of section 943.0436, Florida Statutes, is reenacted to read:

943.0436 Duty of the court to uphold laws governing sexual predators and sexual offenders.—

(2) If a person meets the criteria in chapter 775 for designation as a sexual predator or meets the criteria in s. 943.0435, s. 944.606, s. 944.607, or any other law for classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

(a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from

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such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;

(b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or

(c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as such duty or authority relates to sexual predators or sexual offenders.

Section 107. For the purpose of incorporating the amendment made by this act to section 847.0135, Florida Statutes, in a reference thereto, paragraph (g) of subsection (2) of section 943.325, Florida Statutes, is reenacted to read:

943.325 DNA database.—

(2) DEFINITIONS.—As used in this section, the term:

(g) "Qualifying offender" means any person, including juveniles and adults, who is:

1.a. Committed to a county jail;

b. Committed to or under the supervision of the Department of Corrections, including persons incarcerated in a private correctional institution operated under contract pursuant to s. 944.105;

c. Committed to or under the supervision of the Department of Juvenile Justice;

d. Transferred to this state under the Interstate Compact on Juveniles, part XIII of chapter 985; or

e. Accepted under Article IV of the Interstate Corrections Compact, part III of chapter 941; and who is:

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2.a. Convicted of any felony offense or attempted felony offense in this state or of a similar offense in another jurisdiction;

b. Convicted of a misdemeanor violation of s. 784.048, s. 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an offense that was found, pursuant to s. 874.04, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03; or

c. Arrested for any felony offense or attempted felony offense in this state.

Section 108. For the purpose of incorporating the amendment made by this act to section 847.001, Florida Statutes, in a reference thereto, subsection (2) of section 944.11, Florida Statutes, is reenacted to read:

944.11 Department to regulate admission of books.—

(2) The department shall have the authority to prohibit admission of reading materials or publications with content which depicts sexual conduct as defined by s. 847.001 or presents nudity in such a way as to create the appearance that sexual conduct is imminent. The department shall have the authority to prohibit admission of such materials at a particular state correctional facility upon a determination by the department that such material or publications would be detrimental to the safety, security, order or rehabilitative interests of a particular state correctional facility or would create a risk of disorder at a particular state correctional facility.

Section 109. For the purpose of incorporating the

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amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraph (a) of subsection (4) and subsection (9) of section 944.607, Florida Statutes, are reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated shall register with the Department of Corrections within 3 business days after sentencing for a registrable offense and otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); employment information required to be provided pursuant to s. 943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box; if no permanent or temporary address, any transient residence within the state; and address, location or description, and dates of any current or known future temporary residence within the state or out of state. The

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sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. 775.21 and 943.0435. The department shall report to the Department of Law Enforcement any failure by a sexual predator or sexual offender to comply with registration requirements.

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register and obtain a distinctive driver license or identification card in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register and obtain a distinctive driver license or identification card as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

Section 110. For the purpose of incorporating the amendments made by this act to sections 775.21 and 944.607, Florida Statutes, in references thereto, subsection (7) of section 944.608, Florida Statutes, is reenacted to read:

944.608 Notification to Department of Law Enforcement of information on career offenders.—

(7) A career offender who is under the supervision of the department but who is not incarcerated shall, in addition to the

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registration requirements provided in subsection (3), register in the manner provided in s. 775.261(4)(c), unless the career offender is a sexual predator, in which case he or she shall register as required under s. 775.21, or is a sexual offender, in which case he or she shall register as required in s. 944.607. A career offender who fails to comply with the requirements of s. 775.261(4) is subject to the penalties provided in s. 775.261(8).

Section 111. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (4) of section 944.609, Florida Statutes, is reenacted to read:

944.609 Career offenders; notification upon release.—

(4) The department or any law enforcement agency may notify the community and the public of a career offender's presence in the community. However, with respect to a career offender who has been found to be a sexual predator under s. 775.21, the Department of Law Enforcement or any other law enforcement agency must inform the community and the public of the career offender's presence in the community, as provided in s. 775.21.

Section 112. For the purpose of incorporating the amendment made by this act to section 947.1405, Florida Statutes, in a reference thereto, subsection (1) of section 944.70, Florida Statutes, is reenacted to read:

944.70 Conditions for release from incarceration.—

(1)(a) A person who is convicted of a crime committed on or after October 1, 1983, but before January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person's sentence;

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5170 2. Upon expiration of the person's sentence as reduced by  
 5171 accumulated gain-time;  
 5172 3. As directed by an executive order granting clemency;  
 5173 4. Upon attaining the provisional release date;  
 5174 5. Upon placement in a conditional release program pursuant  
 5175 to s. 947.1405; or  
 5176 6. Upon the granting of control release pursuant to s.  
 5177 947.146.  
 5178 (b) A person who is convicted of a crime committed on or  
 5179 after January 1, 1994, may be released from incarceration only:  
 5180 1. Upon expiration of the person's sentence;  
 5181 2. Upon expiration of the person's sentence as reduced by  
 5182 accumulated meritorious or incentive gain-time;  
 5183 3. As directed by an executive order granting clemency;  
 5184 4. Upon placement in a conditional release program pursuant  
 5185 to s. 947.1405 or a conditional medical release program pursuant  
 5186 to s. 947.149; or  
 5187 5. Upon the granting of control release, including  
 5188 emergency control release, pursuant to s. 947.146.  
 5189 Section 113. For the purpose of incorporating the amendment  
 5190 made by this act to section 947.1405, Florida Statutes, in a  
 5191 reference thereto, paragraph (f) of subsection (1) of section  
 5192 947.13, Florida Statutes, is reenacted to read:  
 5193 947.13 Powers and duties of commission.-  
 5194 (1) The commission shall have the powers and perform the  
 5195 duties of:  
 5196 (f) Establishing the terms and conditions of persons  
 5197 released on conditional release under s. 947.1405, and  
 5198 determining subsequent ineligibility for conditional release due

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5199 to a violation of the terms or conditions of conditional release  
 5200 and taking action with respect to such a violation.  
 5201 Section 114. For the purpose of incorporating the  
 5202 amendments made by this act to sections 775.21, 943.0435, and  
 5203 943.4354, Florida Statutes, in references thereto, paragraph (c)  
 5204 of subsection (2) and subsection (12) of section 947.1405,  
 5205 Florida Statutes, are reenacted to read:  
 5206 947.1405 Conditional release program.-  
 5207 (2) Any inmate who:  
 5208 (c) Is found to be a sexual predator under s. 775.21 or  
 5209 former s. 775.23,  
 5210 shall, upon reaching the tentative release date or provisional  
 5211 release date, whichever is earlier, as established by the  
 5212 Department of Corrections, be released under supervision subject  
 5213 to specified terms and conditions, including payment of the cost  
 5214 of supervision pursuant to s. 948.09. Such supervision shall be  
 5215 applicable to all sentences within the overall term of sentences  
 5216 if an inmate's overall term of sentences includes one or more  
 5217 sentences that are eligible for conditional release supervision  
 5218 as provided herein. Effective July 1, 1994, and applicable for  
 5219 offenses committed on or after that date, the commission may  
 5220 require, as a condition of conditional release, that the  
 5221 releasee make payment of the debt due and owing to a county or  
 5222 municipal detention facility under s. 951.032 for medical care,  
 5223 treatment, hospitalization, or transportation received by the  
 5224 releasee while in that detention facility. The commission, in  
 5225 determining whether to order such repayment and the amount of  
 5226 such repayment, shall consider the amount of the debt, whether  
 5227

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5228 there was any fault of the institution for the medical expenses  
 5229 incurred, the financial resources of the releasee, the present  
 5230 and potential future financial needs and earning ability of the  
 5231 releasee, and dependents, and other appropriate factors. If any  
 5232 inmate placed on conditional release supervision is also subject  
 5233 to probation or community control, resulting from a probationary  
 5234 or community control split sentence within the overall term of  
 5235 sentences, the Department of Corrections shall supervise such  
 5236 person according to the conditions imposed by the court and the  
 5237 commission shall defer to such supervision. If the court revokes  
 5238 probation or community control and resentsences the offender to a  
 5239 term of incarceration, such revocation also constitutes a  
 5240 sufficient basis for the revocation of the conditional release  
 5241 supervision on any nonprobationary or noncommunity control  
 5242 sentence without further hearing by the commission. If any such  
 5243 supervision on any nonprobationary or noncommunity control  
 5244 sentence is revoked, such revocation may result in a forfeiture  
 5245 of all gain-time, and the commission may revoke the resulting  
 5246 deferred conditional release supervision or take other action it  
 5247 considers appropriate. If the term of conditional release  
 5248 supervision exceeds that of the probation or community control,  
 5249 then, upon expiration of the probation or community control,  
 5250 authority for the supervision shall revert to the commission and  
 5251 the supervision shall be subject to the conditions imposed by  
 5252 the commission. A panel of no fewer than two commissioners shall  
 5253 establish the terms and conditions of any such release. If the  
 5254 offense was a controlled substance violation, the conditions  
 5255 shall include a requirement that the offender submit to random  
 5256 substance abuse testing intermittently throughout the term of

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5257 conditional release supervision, upon the direction of the  
 5258 correctional probation officer as defined in s. 943.10(3). The  
 5259 commission shall also determine whether the terms and conditions  
 5260 of such release have been violated and whether such violation  
 5261 warrants revocation of the conditional release.

5262 (12) In addition to all other conditions imposed, for a  
 5263 releasee who is subject to conditional release for a crime that  
 5264 was committed on or after May 26, 2010, and who has been  
 5265 convicted at any time of committing, or attempting, soliciting,  
 5266 or conspiring to commit, any of the criminal offenses listed in  
 5267 s. 943.0435(1)(h)1.a.(I), or a similar offense in another  
 5268 jurisdiction against a victim who was under 18 years of age at  
 5269 the time of the offense, if the releasee has not received a  
 5270 pardon for any felony or similar law of another jurisdiction  
 5271 necessary for the operation of this subsection, if a conviction  
 5272 of a felony or similar law of another jurisdiction necessary for  
 5273 the operation of this subsection has not been set aside in any  
 5274 postconviction proceeding, or if the releasee has not been  
 5275 removed from the requirement to register as a sexual offender or  
 5276 sexual predator pursuant to s. 943.04354, the commission must  
 5277 impose the following conditions:

5278 (a) A prohibition on visiting schools, child care  
 5279 facilities, parks, and playgrounds without prior approval from  
 5280 the releasee's supervising officer. The commission may also  
 5281 designate additional prohibited locations to protect a victim.  
 5282 The prohibition ordered under this paragraph does not prohibit  
 5283 the releasee from visiting a school, child care facility, park,  
 5284 or playground for the sole purpose of attending a religious  
 5285 service as defined in s. 775.0861 or picking up or dropping off

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5286 the releasee's child or grandchild at a child care facility or  
5287 school.

5288 (b) A prohibition on distributing candy or other items to  
5289 children on Halloween; wearing a Santa Claus costume, or other  
5290 costume to appeal to children, on or preceding Christmas;  
5291 wearing an Easter Bunny costume, or other costume to appeal to  
5292 children, on or preceding Easter; entertaining at children's  
5293 parties; or wearing a clown costume without prior approval from  
5294 the commission.

5295 Section 115. For the purpose of incorporating the amendment  
5296 made by this act to section 947.1405, Florida Statutes, in  
5297 references thereto, subsections (1), (2), and (7) of section  
5298 947.141, Florida Statutes, are reenacted to read:

5299 947.141 Violations of conditional release, control release,  
5300 or conditional medical release or addiction-recovery  
5301 supervision.—

5302 (1) If a member of the commission or a duly authorized  
5303 representative of the commission has reasonable grounds to  
5304 believe that an offender who is on release supervision under s.  
5305 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated  
5306 the terms and conditions of the release in a material respect,  
5307 such member or representative may cause a warrant to be issued  
5308 for the arrest of the releasee; if the offender was found to be  
5309 a sexual predator, the warrant must be issued.

5310 (2) Upon the arrest on a felony charge of an offender who  
5311 is on release supervision under s. 947.1405, s. 947.146, s.  
5312 947.149, or s. 944.4731, the offender must be detained without  
5313 bond until the initial appearance of the offender at which a  
5314 judicial determination of probable cause is made. If the trial

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5315 court judge determines that there was no probable cause for the  
5316 arrest, the offender may be released. If the trial court judge  
5317 determines that there was probable cause for the arrest, such  
5318 determination also constitutes reasonable grounds to believe  
5319 that the offender violated the conditions of the release. Within  
5320 24 hours after the trial court judge's finding of probable  
5321 cause, the detention facility administrator or designee shall  
5322 notify the commission and the department of the finding and  
5323 transmit to each a facsimile copy of the probable cause  
5324 affidavit or the sworn offense report upon which the trial court  
5325 judge's probable cause determination is based. The offender must  
5326 continue to be detained without bond for a period not exceeding  
5327 72 hours excluding weekends and holidays after the date of the  
5328 probable cause determination, pending a decision by the  
5329 commission whether to issue a warrant charging the offender with  
5330 violation of the conditions of release. Upon the issuance of the  
5331 commission's warrant, the offender must continue to be held in  
5332 custody pending a revocation hearing held in accordance with  
5333 this section.

5334 (7) If a law enforcement officer has probable cause to  
5335 believe that an offender who is on release supervision under s.  
5336 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated  
5337 the terms and conditions of his or her release by committing a  
5338 felony offense, the officer shall arrest the offender without a  
5339 warrant, and a warrant need not be issued in the case.

5340 Section 116. For the purpose of incorporating the  
5341 amendments made by this act to sections 775.21 and 943.0435,  
5342 Florida Statutes, in references thereto, paragraph (b) of  
5343 subsection (2) of section 948.013, Florida Statutes, is

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reenacted to read:

948.013 Administrative probation.—

(2)

(b) Effective for an offense committed on or after October 1, 2017, a person is ineligible for placement on administrative probation if the person is sentenced to or is serving a term of probation or community control, regardless of the conviction or adjudication, for committing, or attempting, conspiring, or soliciting to commit, any of the felony offenses described in s. 775.21(4)(a)1.a. or b. or s. 943.0435(1)(h)1.a.

Section 117. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in references thereto, paragraphs (b) and (d) of subsection (8) of section 948.06, Florida Statutes, are reenacted to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(8)

(b) For purposes of this section and ss. 903.0351, 948.064, and 921.0024, the term “violent felony offender of special concern” means a person who is on:

1. Felony probation or community control related to the commission of a qualifying offense committed on or after the effective date of this act;

2. Felony probation or community control for any offense committed on or after the effective date of this act, and has previously been convicted of a qualifying offense;

3. Felony probation or community control for any offense committed on or after the effective date of this act, and is

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found to have violated that probation or community control by committing a qualifying offense;

4. Felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in s. 775.084(1)(b) and has committed a qualifying offense on or after the effective date of this act;

5. Felony probation or community control and has previously been found by a court to be a three-time violent felony offender as defined in s. 775.084(1)(c) and has committed a qualifying offense on or after the effective date of this act; or

6. Felony probation or community control and has previously been found by a court to be a sexual predator under s. 775.21 and has committed a qualifying offense on or after the effective date of this act.

(d) In the case of an alleged violation of probation or community control other than a failure to pay costs, fines, or restitution, the following individuals shall remain in custody pending the resolution of the probation or community control violation:

1. A violent felony offender of special concern, as defined in this section;

2. A person who is on felony probation or community control for any offense committed on or after the effective date of this act and who is arrested for a qualifying offense as defined in this section; or

3. A person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in s. 775.084(1)(b), a three-time violent felony offender as defined in s. 775.084(1)(c), or

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a sexual predator under s. 775.21, and who is arrested for committing a qualifying offense as defined in this section on or after the effective date of this act.

The court shall not dismiss the probation or community control violation warrant pending against an offender enumerated in this paragraph without holding a recorded violation-of-probation hearing at which both the state and the offender are represented.

Section 118. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 944.607, Florida Statutes, in references thereto, section 948.063, Florida Statutes, is reenacted to read:

948.063 Violations of probation or community control by designated sexual offenders and sexual predators.—

(1) If probation or community control for any felony offense is revoked by the court pursuant to s. 948.06(2)(e) and the offender is designated as a sexual offender pursuant to s. 943.0435 or s. 944.607 or as a sexual predator pursuant to s. 775.21 for unlawful sexual activity involving a victim 15 years of age or younger and the offender is 18 years of age or older, and if the court imposes a subsequent term of supervision following the revocation of probation or community control, the court must order electronic monitoring as a condition of the subsequent term of probation or community control.

(2) If the probationer or offender is required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435 or s. 944.607 for unlawful sexual activity involving a victim 15 years of age or younger and the

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probationer or offender is 18 years of age or older and has violated the conditions of his or her probation or community control, but the court does not revoke the probation or community control, the court shall nevertheless modify the probation or community control to include electronic monitoring for any probationer or offender not then subject to electronic monitoring.

Section 119. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (4) of section 948.064, Florida Statutes, is reenacted to read:

948.064 Notification of status as a violent felony offender of special concern.—

(4) The state attorney, or the statewide prosecutor if applicable, shall advise the court at each critical stage in the judicial process, at which the state attorney or statewide prosecutor is represented, whether an alleged or convicted offender is a violent felony offender of special concern; a person who is on felony probation or community control for any offense committed on or after the effective date of this act and who is arrested for a qualifying offense; or a person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in s. 775.084(1)(b), a three-time violent felony offender as defined in s. 775.084(1)(c), or a sexual predator under s. 775.21, and who is arrested for committing a qualifying offense on or after the effective date of this act.

Section 120. For the purpose of incorporating the amendment made by this act to section 948.06, Florida Statutes, in a

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reference thereto, paragraph (a) of subsection (7) of section 948.08, Florida Statutes, is reenacted to read:

948.08 Pretrial intervention program.—

(7) (a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered veterans' treatment program, the court may deny the defendant's admission into the pretrial veterans' treatment program.

Section 121. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, subsection (3) of section 948.12, Florida Statutes, is reenacted to read:

948.12 Intensive supervision for postprison release of violent offenders.—It is the finding of the Legislature that the population of violent offenders released from state prison into

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the community poses the greatest threat to the public safety of the groups of offenders under community supervision. Therefore, for the purpose of enhanced public safety, any offender released from state prison who:

(3) Has been found to be a sexual predator pursuant to s. 775.21,

and who has a term of probation to follow the period of incarceration shall be provided intensive supervision by experienced correctional probation officers. Subject to specific appropriation by the Legislature, caseloads may be restricted to a maximum of 40 offenders per officer to provide for enhanced public safety as well as to effectively monitor conditions of electronic monitoring or curfews, if such was ordered by the court.

Section 122. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraph (b) of subsection (3) and subsection (4) of section 948.30, Florida Statutes, are reenacted to read:

948.30 Additional terms and conditions of probation or community control for certain sex offenses.—Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(3) Effective for a probationer or community controllee whose crime was committed on or after September 1, 2005, and who:

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5518 (b) Is designated a sexual predator pursuant to s. 775.21;  
 5519 or  
 5520  
 5521 the court must order, in addition to any other provision of this  
 5522 section, mandatory electronic monitoring as a condition of the  
 5523 probation or community control supervision.  
 5524 (4) In addition to all other conditions imposed, for a  
 5525 probationer or community controllee who is subject to  
 5526 supervision for a crime that was committed on or after May 26,  
 5527 2010, and who has been convicted at any time of committing, or  
 5528 attempting, soliciting, or conspiring to commit, any of the  
 5529 criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a  
 5530 similar offense in another jurisdiction, against a victim who  
 5531 was under the age of 18 at the time of the offense; if the  
 5532 offender has not received a pardon for any felony or similar law  
 5533 of another jurisdiction necessary for the operation of this  
 5534 subsection, if a conviction of a felony or similar law of  
 5535 another jurisdiction necessary for the operation of this  
 5536 subsection has not been set aside in any postconviction  
 5537 proceeding, or if the offender has not been removed from the  
 5538 requirement to register as a sexual offender or sexual predator  
 5539 pursuant to s. 943.04354, the court must impose the following  
 5540 conditions:  
 5541 (a) A prohibition on visiting schools, child care  
 5542 facilities, parks, and playgrounds, without prior approval from  
 5543 the offender's supervising officer. The court may also designate  
 5544 additional locations to protect a victim. The prohibition  
 5545 ordered under this paragraph does not prohibit the offender from  
 5546 visiting a school, child care facility, park, or playground for

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5547 the sole purpose of attending a religious service as defined in  
 5548 s. 775.0861 or picking up or dropping off the offender's  
 5549 children or grandchildren at a child care facility or school.  
 5550 (b) A prohibition on distributing candy or other items to  
 5551 children on Halloween; wearing a Santa Claus costume, or other  
 5552 costume to appeal to children, on or preceding Christmas;  
 5553 wearing an Easter Bunny costume, or other costume to appeal to  
 5554 children, on or preceding Easter; entertaining at children's  
 5555 parties; or wearing a clown costume; without prior approval from  
 5556 the court.  
 5557 Section 123. For the purpose of incorporating the  
 5558 amendments made by this act to sections 775.21, 943.0435,  
 5559 944.606, and 944.607, Florida Statutes, in references thereto,  
 5560 section 948.31, Florida Statutes, is reenacted to read:  
 5561 948.31 Evaluation and treatment of sexual predators and  
 5562 offenders on probation or community control.—The court may  
 5563 require any probationer or community controllee who is required  
 5564 to register as a sexual predator under s. 775.21 or sexual  
 5565 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo  
 5566 an evaluation, at the probationer or community controllee's  
 5567 expense, by a qualified practitioner to determine whether such  
 5568 probationer or community controllee needs sexual offender  
 5569 treatment. If the qualified practitioner determines that sexual  
 5570 offender treatment is needed and recommends treatment, the  
 5571 probationer or community controllee must successfully complete  
 5572 and pay for the treatment. Such treatment must be obtained from  
 5573 a qualified practitioner as defined in s. 948.001. Treatment may  
 5574 not be administered by a qualified practitioner who has been  
 5575 convicted or adjudicated delinquent of committing, or

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attempting, soliciting, or conspiring to commit, any offense that is listed in s. 943.0435(1)(h)1.a.(I).

Section 124. For the purpose of incorporating the amendment made by this act to section 775.0877, Florida Statutes, in a reference thereto, section 951.27, Florida Statutes, is reenacted to read:

951.27 Blood tests of inmates.—

(1) Each county and each municipal detention facility shall have a written procedure developed, in consultation with the facility medical provider, establishing conditions under which an inmate will be tested for infectious disease, including human immunodeficiency virus pursuant to s. 775.0877, which procedure is consistent with guidelines of the Centers for Disease Control and Prevention and recommendations of the Correctional Medical Authority. It is not unlawful for the person receiving the test results to divulge the test results to the sheriff or chief correctional officer.

(2) Except as otherwise provided in this subsection, serologic blood test results obtained pursuant to subsection (1) are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such results may be provided to employees or officers of the sheriff or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know such information, and as provided in ss. 775.0877 and 960.003. In addition, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the results of any HIV test performed on an inmate who has been arrested for any sexual offense involving

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oral, anal, or vaginal penetration by, or union with, the sexual organ of another, shall be disclosed to the victim or the victim's legal guardian, or to the parent or legal guardian of the victim if the victim is a minor. In such cases, the county or municipal detention facility shall furnish the test results to the Department of Health, which is responsible for disclosing the results to public health agencies as provided in s. 775.0877 and to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, as provided in s. 960.003(3).

(3) The results of any serologic blood test on an inmate are a part of that inmate's permanent medical file. Upon transfer of the inmate to any other correctional facility, such file is also transferred, and all relevant authorized persons must be notified of positive HIV test results, as required in s. 775.0877.

Section 125. For the purpose of incorporating the amendment made by this act to section 775.0877, Florida Statutes, in references thereto, paragraphs (a) and (b) of subsection (2) and paragraph (a) of subsection (3) of section 960.003, Florida Statutes, are reenacted to read:

960.003 Hepatitis and HIV testing for persons charged with or alleged by petition for delinquency to have committed certain offenses; disclosure of results to victims.—

(2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

(a) In any case in which a person has been charged by information or indictment with or alleged by petition for delinquency to have committed any offense enumerated in s.

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775.0877(1)(a)-(n), which involves the transmission of body fluids from one person to another, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing within 48 hours after the information, indictment, or petition for delinquency is filed. In the event the victim or, if the victim is a minor, the victim's parent or legal guardian requests hepatitis and HIV testing after 48 hours have elapsed from the filing of the indictment, information, or petition for delinquency, the testing shall be done within 48 hours after the request.

(b) However, when a victim of any sexual offense enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at the time the offense was committed or when a victim of any sexual offense enumerated in s. 775.0877(1)(a)-(n) or s. 825.1025 is a disabled adult or elderly person as defined in s. 825.1025 regardless of whether the offense involves the transmission of bodily fluids from one person to another, then upon the request of the victim or the victim's legal guardian, or of the parent or legal guardian, the court shall order such person to undergo hepatitis and HIV testing within 48 hours after the information, indictment, or petition for delinquency is filed. In the event the victim or, if the victim is a minor, the victim's parent or legal guardian requests hepatitis and HIV testing after 48 hours have elapsed from the filing of the indictment, information, or petition for delinquency, the testing shall be done within 48 hours after the request. The testing shall be performed under the direction of the Department of Health in accordance with s. 381.004. The results of a hepatitis and HIV test performed on a

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defendant or juvenile offender pursuant to this subsection shall not be admissible in any criminal or juvenile proceeding arising out of the alleged offense.

## (3) DISCLOSURE OF RESULTS.—

(a) The results of the test shall be disclosed no later than 2 weeks after the court receives such results, under the direction of the Department of Health, to the person charged with or alleged by petition for delinquency to have committed or to the person convicted of or adjudicated delinquent for any offense enumerated in s. 775.0877(1)(a)-(n), which involves the transmission of body fluids from one person to another, and, upon request, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, and to public health agencies pursuant to s. 775.0877. If the alleged offender is a juvenile, the test results shall also be disclosed to the parent or guardian. When the victim is a victim as described in paragraph (2)(b), the test results must also be disclosed no later than 2 weeks after the court receives such results, to the person charged with or alleged by petition for delinquency to have committed or to the person convicted of or adjudicated delinquent for any offense enumerated in s. 775.0877(1)(a)-(n), or s. 825.1025 regardless of whether the offense involves the transmission of bodily fluids from one person to another, and, upon request, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim, and to public health agencies pursuant to s. 775.0877. Otherwise, hepatitis and HIV test results obtained pursuant to this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and

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shall not be disclosed to any other person except as expressly authorized by law or court order.

Section 126. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (5) of section 960.065, Florida Statutes, is reenacted to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(71)(g).

Section 127. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (2) of section 984.03, Florida Statutes, is reenacted to read:

984.03 Definitions.—When used in this chapter, the term:

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 39.01.

Section 128. For the purpose of incorporating the amendment made by this act to section 985.475, Florida Statutes, in a reference thereto, paragraph (c) of subsection (5) of section 985.0301, Florida Statutes, is reenacted to read:

985.0301 Jurisdiction.—

(5)

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(c) The court shall retain jurisdiction over a juvenile sexual offender, as defined in s. 985.475, who has been placed on community-based treatment alternative with supervision or who has been placed in a program or facility for juvenile sexual offenders, pursuant to s. 985.48, until the juvenile sexual offender reaches 21 years of age, specifically for the purpose of allowing the juvenile to complete the program.

Section 129. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, 944.606, and 944.607, Florida Statutes, in references thereto, paragraph (b) of subsection (6) of section 985.04, Florida Statutes, is reenacted to read:

985.04 Oaths; records; confidential information.—

(6)

(b) Sexual offender and predator registration information as required in ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815 is a public record pursuant to s. 119.07(1) and as otherwise provided by law.

Section 130. For the purpose of incorporating the amendment made by this act to section 985.475, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 985.441, Florida Statutes, is reenacted to read:

985.441 Commitment.—

(1) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

(c) Commit the child to the department for placement in a program or facility for juvenile sexual offenders in accordance



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5750 with s. 985.48, subject to specific appropriation for such a  
 5751 program or facility.

5752 1. The child may only be committed for such placement  
 5753 pursuant to determination that the child is a juvenile sexual  
 5754 offender under the criteria specified in s. 985.475.

5755 2. Any commitment of a juvenile sexual offender to a  
 5756 program or facility for juvenile sexual offenders must be for an  
 5757 indeterminate period of time, but the time may not exceed the  
 5758 maximum term of imprisonment that an adult may serve for the  
 5759 same offense.

5760 Section 131. For the purpose of incorporating the  
 5761 amendments made by this act to sections 775.21 and 943.0435,  
 5762 Florida Statutes, in references thereto, subsection (9) of  
 5763 section 985.4815, Florida Statutes, is reenacted to read:

5764 985.4815 Notification to Department of Law Enforcement of  
 5765 information on juvenile sexual offenders.—

5766 (9) A sexual offender, as described in this section, who is  
 5767 under the care, jurisdiction, or supervision of the department  
 5768 but who is not incarcerated shall, in addition to the  
 5769 registration requirements provided in subsection (4), register  
 5770 in the manner provided in s. 943.0435(3), (4), and (5), unless  
 5771 the sexual offender is a sexual predator, in which case he or  
 5772 she shall register as required under s. 775.21. A sexual  
 5773 offender who fails to comply with the requirements of s.  
 5774 943.0435 is subject to the penalties provided in s. 943.0435(9).

5775 Section 132. For the purpose of incorporating the amendment  
 5776 made by this act to section 943.0435, Florida Statutes, in a  
 5777 reference thereto, paragraph (g) of subsection (2) of section  
 5778 1012.467, Florida Statutes, is reenacted to read:

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5779 1012.467 Noninstructional contractors who are permitted  
 5780 access to school grounds when students are present; background  
 5781 screening requirements.—

5782 (2)

5783 (g) A noninstructional contractor for whom a criminal  
 5784 history check is required under this section may not have been  
 5785 convicted of any of the following offenses designated in the  
 5786 Florida Statutes, any similar offense in another jurisdiction,  
 5787 or any similar offense committed in this state which has been  
 5788 redesignated from a former provision of the Florida Statutes to  
 5789 one of the following offenses:

5790 1. Any offense listed in s. 943.0435(1)(h)1., relating to  
 5791 the registration of an individual as a sexual offender.

5792 2. Section 393.135, relating to sexual misconduct with  
 5793 certain developmentally disabled clients and the reporting of  
 5794 such sexual misconduct.

5795 3. Section 394.4593, relating to sexual misconduct with  
 5796 certain mental health patients and the reporting of such sexual  
 5797 misconduct.

5798 4. Section 775.30, relating to terrorism.

5799 5. Section 782.04, relating to murder.

5800 6. Section 787.01, relating to kidnapping.

5801 7. Any offense under chapter 800, relating to lewdness and  
 5802 indecent exposure.

5803 8. Section 826.04, relating to incest.

5804 9. Section 827.03, relating to child abuse, aggravated  
 5805 child abuse, or neglect of a child.

5806 Section 133. This act shall take effect October 1, 2018.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1214  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, January 29, 2018  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 401 Senate Office Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1442

INTRODUCER: Senator Book

SUBJECT: Early Childhood Court Program

DATE: January 30, 2018

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Preston	Hendon	CF	<b>Fav/CS</b>
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1442 creates a new section of the Florida Statutes, to create of an Early Childhood Court (ECC) program that addresses cases involving children typically under the age of three and utilizes specialized dockets, multidisciplinary teams, and a nonadversarial approach. The bill provides legislative findings and intent and requires:

- Specified core components to be included to be considered an early childhood court. Those components include judicial leadership, community coordination, a court team, and a continuum of mental health services.
- The Office of the State Courts Administrator (OSCA), in coordination with the circuit courts, to hire and train a full-time community coordinator at each ECC program site. OSCA may also hire a statewide community coordinator to implement the program.
- OSCA to contract with one or more university based centers with an expertise in infant mental health to hire a statewide clinical director.
- The Florida Institute for Child Welfare (FICW), in consultation with other entities, to evaluate the impact of the ECC program on children in the child welfare system, to include an analysis of data collected by OSCA. The institute is required to submit the results of the evaluation to the Governor, the President of the Senate, and the Speaker of the House by October 1, 2021.

The bill has a fiscal impact on state government and has an effective date of July 1, 2018.

## **II. Present Situation:**

### **Problem-Solving Courts**

In 1989, Florida started problem-solving court initiatives by creating the first drug court in the United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed using the drug court model and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, and child abuse and neglect.<sup>1</sup>

Florida's problem-solving courts address the root causes of the justice system involvement through specialized dockets, multidisciplinary teams, and a nonadversarial approach. Offering evidence-based treatment, judicial supervision, and accountability, problem-solving courts provide individualized interventions for participants, thereby reducing recidivism and promoting confidence and satisfaction with the justice system process.<sup>2</sup>

### **Early Childhood Courts in Florida**

Early childhood courts address child welfare cases involving children typically under the age of three. ECC is considered a "problem-solving court" that is coordinated by the Office of the State Courts Administrator with a goal of improving child safety and well-being, healing trauma and repairing the parent-child relationship, expediting permanency, preventing recurrence of maltreatment, and stopping the intergenerational cycle of abuse/neglect/violence.<sup>3</sup>

Using the Miami Child Well-Being Court model and the National ZERO TO THREE organization's Safe Babies Court Teams approach, Florida's Early Childhood Court program began a little more than 3 years ago.<sup>4</sup>

### ***The Miami Child Well-Being Court***

The development of the Miami Child Well-Being Court (CWBC) model began in the early 1990s out of an atypical collaboration that included a judge, a psychologist, and an early interventionist/education expert. The Miami CWBC model evolved over the course of more than a decade and is now widely recognized as one of the country's leading court improvement efforts, with ties to the National Council for Juvenile and Family Court Judges and Office of Juvenile Justice and Delinquency Prevention Model Courts Project.<sup>5</sup>

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<sup>1</sup> The most common problem-solving courts in Florida are drug courts, mental health courts, veterans courts and early childhood courts. Florida Courts, Office of Court Improvement, Problem-Solving Courts, *available at*: <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/index.stml> (last visited January 24, 2018).

<sup>2</sup> *Id.*

<sup>3</sup> Center for Prevention & Early Intervention Policy, Florida State University, Florida's Early Childhood Court Manual, April 2015, *available at*: <http://cpeip.fsu.edu/babyCourt/resources/Early%20Childhood%20Court%20Manual%204172015.pdf>. (last accessed January 24, 2018).

<sup>4</sup> *Id.*

<sup>5</sup> The Miami Child Well-Being Court Model, Essential Elements and Implementation Guidance, *available at*: <http://www.floridaschildrenfirst.org/wp-content/uploads/2013/02/MiamiChild.pdf>. (last visited January 25, 2018).

The Miami CWBC was unique due to the leadership of a judge who insisted that the court process should be informed by the science of early childhood development and who required the court to engage in intensive efforts to heal the child and—if possible—the parent-child relationship. As with the problem-solving approach of drug and mental health courts, such leadership represented a paradigm shift away from the traditional adversarial culture of the court for one in which judges utilize a court-initiated systems-integration approach to promote healing and recovery from trauma in maltreated young children and to break the intergenerational transmission of child abuse and neglect.<sup>6,7</sup>

The Miami CWBC galvanized the long-term commitment and shared vision of decision-makers across the judiciary, child welfare, child mental health, and other child- and family-serving systems in Miami- Dade to create meaningful, lasting change for court involved children and their families. The Miami CWBC model is anchored by three essential principles:

- The needs of vulnerable children involved in dependency court will be best served through a problem-solving court approach led by a science informed judge. This approach is realized through a court team that is committed to collaboration in the interest of the child’s safety and emotional well-being. In addition to the judge, the court team includes the attorney representing the parent, the attorney for the state, the guardian ad litem (GAL) or court-appointed special advocate (CASA), child’s attorney, or both; and the child welfare caseworker.
- Young children exposed to maltreatment and other harmful experiences need evidence-based clinical intervention to restore their sense of safety and trust and ameliorate early emotional and behavioral problems. Such intervention must address the child-caregiver relationship and have the potential to catalyze the parent’s insight to address the risks to the child’s safety and well-being. The intervention employed in the Miami CWBC is Child-Parent Psychotherapy applied to the context of court-ordered treatment.
- The judicial decision-making process is improved when ongoing assessment of the child-parent relationship, the parent’s ability to protect and care for the child, and the child’s well-being is provided by the treating clinician. This is best accomplished by involving the clinician on the court team to collaborate with the other parties usually involved in court proceedings. This unusual role for the clinician in the court process is actively supported by the judge.<sup>8</sup>

### ***Safe Babies Court Teams***

ZERO TO THREE was founded in 1977 as the National Center for Clinical Infant Programs by internationally recognized professionals in the fields of medicine, mental health, social science research, child development and community leadership interested in advancing the healthy development of infants, toddlers, and families. ZERO TO THREE has a history of turning the science of early development into helpful resources, practical tools and responsive policies for

<sup>6</sup> Harvard Law School, Child Advocacy Program, The Miami Child Well Being Court Model, *available at*: [http://cap.law.harvard.edu/wp-content/uploads/2015/07/22\\_miami-child-well-being-court-model.pdf](http://cap.law.harvard.edu/wp-content/uploads/2015/07/22_miami-child-well-being-court-model.pdf) (last visited January 20, 2018).

<sup>7</sup> In 1994, Dr. Joy Osofsky began developing a similar court in New Orleans, working through an “infant team” of judges, lawyers, therapists and others to provide interventions for abused and neglected babies. They had two goals: to achieve permanency more quickly, although not necessarily reunification, and to prevent further abuse and neglect.

<sup>8</sup> The Miami Child Well-Being Court Model, Essential Elements and Implementation Guidance, *available at*: <http://www.floridaschildrenfirst.org/wp-content/uploads/2013/02/MiamiChild.pdf>. (last visited January 25, 2018).

millions of parents, professionals, and policymakers. The organization houses a number of programs including Safe Babies Court Teams.<sup>9</sup>

In 2003, in partnership with the National Council of Juvenile and Family Court Judges, Court Teams for Maltreated Infants and Toddlers were conceptualized and in 2005, the first court teams were established in Fort Bend, Texas; Hattiesburg, Mississippi; and Des Moines, Iowa. Currently, the initiative operates in multiple sites around the country.<sup>10</sup>

Based on the Miami Child Well-Being Court and the New Orleans models,<sup>11,12</sup> the Safe Babies Court Teams Project is based on developmental science and aims to:

- Increase awareness among those who work with maltreated infants and toddlers about the negative impact of abuse and neglect on very young children; and,
- Change local systems to improve outcomes and prevent future court involvement in the lives of very young children.<sup>13</sup>

This approach is recognized by the California Evidence-Based Clearinghouse for Child Welfare offsite link as being highly relevant to the child welfare system and demonstrating promising research evidence.<sup>14</sup>

The following numbers are based on cases closed during calendar year 2016 for children who were removed from their parents' care due to allegations of abandonment, abuse, or neglect. These measures compare groups of children ages 0-3 who were in the Early Childhood Court (ECC) program to children ages 0-3 who were not in the ECC program.<sup>15</sup>

Measure	# of Children not in ECC	# of Children in ECC
Median number of days from removal to reunification	298.5	226
Median number of days from removal to adoption	704	537
Median number of days from removal to another permanency option	497	385
Re-removal after case closure	3.86%	3.39%

<sup>9</sup> ZERO TO THREE, *Our History*, available at: <https://www.zerotothree.org/about/our-history>. (last visited January 24, 2018).

<sup>10</sup> ZERO TO THREE, *The Safe Babies Court Team Approach: Championing Children, Encouraging Parents, Engaging Communities*, available at: <https://www.zerotothree.org/resources/528-the-safe-babies-court-team-approach-championing-children-encouraging-parents-engaging-communities>. (last visited January 24, 2018).

<sup>11</sup> ACES Too High, In Safe Babies Courts, 99% of kids don't suffer more abuse — but less than 1% of U.S. family courts are Safe Babies Courts. February 23, 2015, available at: <https://acestoohigh.com/2015/02/23/in-safe-babies-courts-99-of-kids-dont-suffer-more-abuse-but-less-than-1-of-u-s-family-courts-are-safe-babies-courts/>. (last visited January 23, 2018).

<sup>12</sup> *Id.* Safe Babies Courts differ from the other models by providing community coordinators who work with court personnel to keep the process on track.

<sup>13</sup> ZERO TO THREE, *Safe Babies Court Teams*, available at: <https://www.zerotothree.org/resources/services/safe-babies-court-teams>. (last visited January 21, 2018).

<sup>14</sup> The California Evidence-Based Clearinghouse for Child Welfare, available at: <http://www.cebc4cw.org/program/safe-babies-court-teams-project/> (last accessed January 20, 2018).

<sup>15</sup> Florida Courts, Office of Court Improvement, *Early Childhood Courts*, available at: <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/early-childhood-court.stml> (last visited January 24, 2018).

***Florida Institute for Child Welfare***

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.<sup>16</sup> The institute is required to:

- Maintain a program of research which contributes to scientific knowledge and informs both policy and practice;
- Advise the department and other organizations participating in the child protection and child welfare system regarding scientific evidence;
- Provide advice regarding management practices and administrative processes used by DCF and other organizations participating in the child protection and child welfare system and recommend improvements; and
- Assess the performance of child protection and child welfare services based on specific outcome measures.<sup>17</sup>

**III. Effect of Proposed Changes:**

**Section 1** creates s. 39.01304, F.S., related to the creation of an Early Childhood Court (ECC) program that addresses cases involving children most frequently under the age of three and utilizes specialized dockets, multidisciplinary teams, and a nonadversarial approach. The bill provides legislative findings and intent and core components that are required for a court to be considered an early childhood court, and requires:

- The Office of the State Courts Administrator (OSCA) to hire and train a full-time community coordinator at each ECC program site. OSCA may also hire a statewide community coordinator to implement the program.
- OSCA to contract with one or more university based centers with an expertise in infant mental health to hire a statewide clinical consultant.
- The Florida Institute for Child Welfare (FICW), in consultation with other entities, to evaluate the impact of ECC programs on children in the child welfare system, to include an analysis of data collected by OSCA. The institute is also required to submit interim reports in 2019 and 2020 and the results of the evaluation to the Governor, the President of the Senate, and the Speaker of the House by October 1, 2021.

**Section 2** provides an effective date of July 1, 2018.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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<sup>16</sup> Section 1004.615, F.S.

<sup>17</sup> Id.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill will have a fiscal impact on the state. The bill encourages the use of early childhood courts that have specialized staff and support services. There are currently 18 such courts. Each one and any other established after the effective date of the bill would be required to hire a community coordinator. The bill also requires OSCA to contract with one or more university based centers to hire a clinical consultant to support the courts and the Florida Institute for Child Welfare evaluate the early childhood courts. Aside from the existing specialized courts, dependency cases are assigned to circuit court in all 20 judicial circuits. To the extent that these cases are handled by a specialty court, they would no longer be heard in dependency courts and could result in a lower caseload. The Office of State Courts Administrator estimates that requirements under the bill would cost:

	FTE	Annual Cost
Court community coordinators and oversight positions	21	\$1,502,268
Clinical consultant and mental health services	1	\$278,000
Evaluation		\$100,000
Total	22	\$1,880,268

The proposed Senate budget appropriates \$480,224 in nonrecurring general revenue to the Office of State Courts Administrator for Fiscal Year 2018-2019 for early childhood courts.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates s. 39.01304 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on January 29, 2018:**

The amendment does the following:

- Removes definitions from the bill;
- Removes references to ZERO TO THREE and Safe Babies Court Team to enable the Miami Child Well-Being Court and other models that meet the specified criteria to be recognized as early childhood courts in Florida;
- Removes the reference to the FSU Center for Prevention and Early Intervention Policy to allow other university centers with a specified expertise to participate in the process; and
- Provides for core components that must be in place for a court to be recognized as an early childhood court.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
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	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Book)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 39.01304, Florida Statutes, is created  
to read:

39.01304 Early Childhood Court programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that the traditional dependency  
court process focuses primarily on ensuring safety and



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permanency for young children, while paying less attention to the mental health and developmental needs of those children related to maltreatment and the disruption in the parent-child relationship.

(b) The Legislature also finds that the emotional problems that manifest themselves in infancy and early childhood are less obvious than the behavioral and mental health problems of older children in out-of-home care.

(c) The Legislature also finds it is important to identify evidence-based practices and trauma-informed care approaches to mitigate the impact of maltreatment on young children placed in out-of-home care and to improve outcomes for them and their families.

(d) The Legislature further finds that every young child in out-of-home care should be afforded the advantages that can be gained from the use of specialized dockets, multidisciplinary teams, and a nonadversarial approach in connection with dependency proceedings in a systems integration approach to heal the child and, if possible, the parent-child relationship.

(e) It is the intent of the Legislature to encourage the department, the Department of Health, the Early Learning Coalitions, and other such agencies, local governments, interested public or private entities, and individuals to support the creation and establishment of early childhood court programs.

(2) PROGRAM DEVELOPMENT.— An early childhood court is a problem solving court with a specialized court docket created under this section that uses evidence-based practices and trauma-informed care approaches to address cases involving young



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children in out-of-home care. An early childhood court depends on the leadership of a judge knowledgeable about the science of early childhood development who requires rigorous efforts to heal the child physically and emotionally, as well as broad collaboration among professionals from different systems working directly in the court as a team with a shared understanding that the parent-child relationship is the foundation of child well-being. A court may be recognized by the Office of the State Courts Administrator as an early childhood court if it contains the following components:

(a) *Judicial leadership.*— In an early childhood court, therapeutic jurisprudence drives every aspect of judicial practice on the bench. The judge engages in practices seldom seen in traditional courtrooms in order to support the therapeutic work of the parent and child in a nonadversarial manner. As used in this section, the term “therapeutic jurisprudence” means the study of how the law acts as a therapeutic agent and focuses on the law’s impact on emotional and psychological well-being.

(b) *Community coordination.*— Each early childhood court must have a procedure for coordinating services and resources for families with a case on the court docket. To meet this requirement, the court either may hire a local community coordinator with child development expertise who works with the judge to facilitate collaboration among the members of the court team or use a coordination system that integrates and institutionalizes a progression of services.

(c) *Court team.*— The court team is made up of key community stakeholders who commit to work with the judge to



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restructure the way the community responds to the needs of maltreated children. The team may include, but not be limited to, early intervention specialists; mental health and infant mental health professionals; attorneys representing children, parents and the child welfare system; children's advocates; early learning coalitions and child care providers; substance abuse providers; primary health care providers; and guardians ad litem. The court team shall also address the need for children in an early childhood court program to receive medical care in a medical home, a screening for developmental delays conducted by the local agency responsible for complying with Part C of the Individuals with Disabilities Education Act, and quality child care.

(d) *Continuum of mental health services.*— Young children who have experienced trauma may benefit from mental health services that work with them and their parents. Parents who maltreat their very young children need some level of intervention to help them understand their children's needs and learn ways to build strong supportive bonds. The continuum of mental health services provided should include a focus on the parent-child relationship and should be appropriate for each child and family served.

While an early childhood court typically serves children from the ages of 0-3 years of age, nothing in this section shall prevent a court from expanding the docket to include children over three years of age depending on available resources.

(3) *PROGRAM IMPLEMENTATION.*— Subject to appropriation and the availability of additional resources:



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98       (a) The courts may create early childhood court programs  
99 that use specialized dockets, multidisciplinary teams, and a  
100 nonadversarial approach in connection with dependency  
101 proceedings.

102       (b) By August 1, 2018, the Office of the State Courts  
103 Administrator shall coordinate with the appropriate circuit  
104 court to hire and train a full-time community coordinator at  
105 each early childhood court program site that was in existence on  
106 July 1, 2018 and may hire a statewide community coordinator to  
107 implement the program. If an early childhood court uses an  
108 alternative coordination system under (2)(b), the Office of the  
109 State Courts Administrator may provide funding equivalent to a  
110 community coordinator position to the court for case  
111 coordination functions.

112       (c) The Office of the State Courts Administrator shall  
113 contract with one or more university-based centers with an  
114 expertise in infant mental health to hire a clinical director to  
115 ensure quality, accountability, and fidelity to the early  
116 childhood court model, including, but not limited to, training  
117 and technical assistance related to clinical services, clinical  
118 consultation and guidance for difficult cases, ongoing clinical  
119 training for court teams.

120       (4) TRAINING.— Within appropriated funds, the Office of the  
121 State Courts Administrator, in partnership with contracted  
122 centers in subsection (3), shall provide training to the  
123 participating court teams on meeting the program objectives.

124       (5) EVALUATION OF THE PROGRAM.— (a) In consultation with  
125 the department, the Office of the State Courts Administrator,  
126 and contracted centers in subsection (3), the Florida Institute



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for Child Welfare shall evaluate the impact of the Early  
Childhood Court program on children and families in Florida's  
child welfare system.

(b) The evaluation must include the analysis of data  
collected by the Office of the State Courts Administrator and  
measurable outcomes, including, but not limited to, the impact  
of the early childhood court program on the future incidence of  
maltreatment of children, timely permanency, reunification of  
families, and incidents of children reentering the child welfare  
system. The evaluation must provide recommendations as to  
whether and how the program should be expanded, the projected  
costs of such expansion, and projected savings to the state  
resulting from the program.

(c) The institute shall submit the results of the  
evaluation to the Governor, the President of the Senate, and the  
Speaker of the House of Representatives, by October 1, 2021.

(6) ANNUAL REPORTS.—By December 1, 2019 and 2020, the  
Florida Institute for Child Welfare shall provide reports on the  
status of the program to the Governor, the President of the  
Senate, and the Speaker of the House of Representatives.

Section 2. This act shall take effect July 1, 2018.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to findings and intent; requiring  
the program to incorporate specified components to be



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considered an early childhood court; authorizing the courts to create early childhood court programs; requiring the office to coordinate with the appropriate circuit court to employ and train a community coordinator for each program site; authorizing the office to hire a statewide community coordinator; authorizing the use of an alternative coordination system; requiring the office to contract with certain university based centers; requiring a contracted center to hire a statewide clinical consultant for specified purposes; requiring the office, in partnership with the center and within appropriated funds, to provide training to program court teams; requiring the Florida Institute for Child Welfare to conduct an evaluation of the program's impact in consultation with the Department of Children and Families, the office, and the center; requiring the evaluation to include certain data and recommendations; requiring the institute to submit the results of its evaluation to the Governor and the Legislature by a specified date; requiring the institute to submit annual reports; providing an effective date.



By Senator Book

32-00740B-18

20181442\_\_

1 A bill to be entitled  
 2 An act relating to an Early Childhood Court program;  
 3 creating s. 39.01304, F.S.; providing legislative  
 4 findings and intent; defining terms; requiring the  
 5 Office of the State Courts Administrator, by a  
 6 specified date, to verify the existence of an Early  
 7 Childhood Court program at certain circuit courts;  
 8 requiring the office to coordinate with the  
 9 appropriate circuit court to employ and train a  
 10 community coordinator for each program site;  
 11 authorizing the office to hire a statewide community  
 12 coordinator; requiring the Florida State University  
 13 Center for Prevention and Early Intervention Policy to  
 14 hire a statewide clinical consultant and assemble a  
 15 clinical oversight team for specified purposes;  
 16 establishing the primary goal of the program and the  
 17 means of achieving the goal; requiring that the  
 18 program be modeled on a specified approach for  
 19 specified purposes; requiring the program to  
 20 incorporate specified core components; requiring the  
 21 office, in partnership with the center and within  
 22 appropriated funds, to provide training to program  
 23 court teams; requiring the Florida Institute for Child  
 24 Welfare to conduct an evaluation of the program's  
 25 impact in consultation with the Department of Children  
 26 and Families, the office, the center, and a specified  
 27 organization; requiring the evaluation to include  
 28 certain data and recommendations; requiring the  
 29 institute to submit the results of its evaluation to

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30 the Governor, the Legislature, and the Office of  
 31 Program Policy Analysis and Government Accountability  
 32 by a specified date; requiring the institute to submit  
 33 annual reports; providing an effective date.  
 34

35 Be It Enacted by the Legislature of the State of Florida:

36  
 37 Section 1. Section 39.01304, Florida Statutes, is created  
 38 to read:

39 39.01304 Early Childhood Court program.-

40 (1) LEGISLATIVE FINDINGS AND INTENT.-

41 (a) The Legislature finds that a child's first 1,000 days  
 42 of life are a critical period during which he or she faces  
 43 either the greatest risk of having to endure lifelong adversity  
 44 or the greatest opportunity for long-term well-being with a  
 45 stable nurturing caregiver.

46 (b) The Legislature also finds it is important to identify  
 47 evidence-based practices and developmentally appropriate  
 48 strategies to mitigate the impact of trauma on young children  
 49 placed in the state's dependency system and to improve outcomes  
 50 for them and their families.

51 (c) The Legislature further finds positive results  
 52 associated with the Safe Babies Court Team approach, advanced by  
 53 the national ZERO TO THREE nonprofit organization, which  
 54 achieves timely permanency, increases a child's well-being, and  
 55 greatly reduces recurrence of child abuse through the  
 56 development and use of specialized dockets, multidisciplinary  
 57 teams, and a nonadversarial approach in connection with  
 58 dependency proceedings.

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(d) It is the intent of the Legislature to provide resources to expand upon the existing specialized Early Childhood Court dockets to ensure their adherence to the Safe Babies Court Team approach. The Legislature also seeks to assess the potential benefits to Florida's children and families from adopting this approach and determine whether expansion of the Early Childhood Court concept in this state is warranted.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Community coordinator" means an individual who works with a judge presiding over an Early Childhood Court, who supports the activities of the court, and who facilitates coordination and collaboration among the members of the Early Childhood Court team.

(b) "Early Childhood Court" means a program that has a specialized court docket created under this section which is modeled after the national ZERO TO THREE Safe Babies Court Team approach and which addresses child welfare cases involving children under 3 years of age.

(c) "Safe Babies Court Team" means a ZERO TO THREE community engagement and systems change initiative focused on improving how the courts, child welfare agencies, and related child-serving organizations work together to improve and expedite services for young children in out-of-home care.

(d) "ZERO TO THREE" means the national nonprofit organization that informs, trains, and supports professionals, policymakers, and parents in efforts to improve and promote the health and development of children under 3 years of age.

(3) PROGRAM DEVELOPMENT.—

(a) By August 1, 2018, the Office of the State Courts

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Administrator shall verify the existence of an Early Childhood Court program at each circuit court site that established a specialized Early Childhood Court docket before July 1, 2018. Multiple program sites may exist in the same county. The Office of the State Courts Administrator shall coordinate with the appropriate circuit court to hire and train a full-time community coordinator at each Early Childhood Court program site that was verified pursuant to this paragraph and may hire a statewide community coordinator to implement the program.

(b) The Florida State University Center for Prevention and Early Intervention Policy shall hire a statewide clinical consultant and assemble a clinical oversight team to ensure quality, accountability, and fidelity to the Early Childhood Court model, including, but not limited to, training and technical assistance related to clinical services, clinical consultation and guidance for difficult cases, ongoing clinical training for court teams, and training in child-parent psychotherapy to expand clinical capacity and support of the professional development of clinicians at each Early Childhood Court program site.

(4) GOALS.—The primary goal of the Early Childhood Court program is to improve outcomes of children under 3 years of age in Florida's child welfare system by doing all of the following:

(a) Improving child safety and well-being.

(b) Addressing parents' trauma-related conditions and associated issues, including, but not limited to, substance abuse, mental health concerns, and family violence, and repairing relationships between parents and their children.

(c) Achieving timely permanency.

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- 117 (d) Preventing recurrences of maltreatment.
- 118 (e) Ending the intergenerational cycle of abuse, neglect,
- 119 and violence.
- 120 (5) CORE COMPONENTS.—The program shall be modeled after the
- 121 national ZERO TO THREE Safe Babies Court Team approach and shall
- 122 promote the adoption of its community engagement and systems
- 123 change initiatives to improve coordination between the courts,
- 124 child welfare agencies, and related organizations for the
- 125 benefit of children under 3 years of age placed in out-of-home
- 126 care. The program shall incorporate, but not be limited to, all
- 127 of the following core components of the Safe Babies Court Team
- 128 approach:
- 129 (a) An engaged and informed judge who leads the court team
- 130 in applying a therapeutic approach.
- 131 (b) A continuum of evidence-based mental health
- 132 interventions to address the parent-child attachment, to heal
- 133 trauma, and to promote healthy relationships.
- 134 (c) An Early Childhood Court community coordinator who
- 135 works with the judge to support Early Childhood Court
- 136 activities.
- 137 (6) TRAINING.—Within appropriated funds, the Office of the
- 138 State Courts Administrator, in partnership with the Florida
- 139 State University Center for Prevention and Early Intervention
- 140 Policy, shall provide training to the participating court teams
- 141 on meeting the program objectives.
- 142 (7) EVALUATION OF THE PROGRAM.—
- 143 (a) In consultation with the department, the Office of the
- 144 State Courts Administrator, the Florida State University Center
- 145 for Prevention and Early Intervention Policy, and the ZERO TO

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- 146 THREE organization, the Florida Institute for Child Welfare
- 147 established in s. 1004.615 shall evaluate the impact of the
- 148 Early Childhood Court program on children and families in
- 149 Florida's child welfare system.
- 150 (b) The evaluation must include the analysis of data
- 151 collected by the Office of the State Courts Administrator and
- 152 measurable outcomes, including, but not limited to, the impact
- 153 of the Early Childhood Court program on the future incidence of
- 154 maltreatment of children whose cases were heard in Early
- 155 Childhood Court, timely permanency, reunification of families,
- 156 and incidents of children reentering the child welfare system
- 157 whose cases were heard in Early Childhood Court. The evaluation
- 158 must provide recommendations as to whether and how the program
- 159 should be expanded, the projected costs of such expansion, and
- 160 projected savings to the state resulting from the Early
- 161 Childhood Court program.
- 162 (c) The institute shall submit the results of the
- 163 evaluation to the Governor, the President of the Senate, the
- 164 Speaker of the House of Representatives, and the Office of
- 165 Program Policy Analysis and Government Accountability by October
- 166 1, 2021.
- 167 (8) ANNUAL REPORTS.—By December 1, 2019 and 2020, the
- 168 Florida Institute for Child Welfare shall provide reports on the
- 169 status of the program to the Governor, the President of the
- 170 Senate, the Speaker of the House of Representatives, and the
- 171 Office of Program Policy Analysis and Government Accountability.
- 172 Section 2. This act shall take effect July 1, 2018.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1442  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, January 29, 2018  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 401 Senate Office Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 1520

INTRODUCER: Senator Hutson

SUBJECT: Licensure of Child Care Programs

DATE: January 26, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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## **I. Summary:**

SB 1520 amends the law related to child care facilities. It revises legislative intent related to child care facilities to clarify that membership organizations affiliated with national organizations which provide child care as defined in s. 402.302, F.S., are considered to be child care facilities and are therefore subject to licensing requirements or minimum standards for child care facilities.

The bill redefines ‘after-school program’ in s. 402.302, F.S., to include all programs offering child care for school-age children during out of school times. The bill exempts such programs that are offered by a school on school grounds, all programs that are solely instructional or tutorial, open-access programs, and programs providing child care exclusively for children in grades 6 through 12 from the licensure requirement.

The bill also removes an existing requirement that DCF adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after school programs that do not require licensure.

The bill is anticipated to have a fiscal impact on state government.

The bill has an effective date of July 1, 2018.

## **II. Present Situation:**

### **Legislative Intent Related to Child Care and Child Care Facilities**

Florida law provides that for parents who choose child care, it is the intent of the legislature to protect the health and welfare of children in care. To accomplish this, the law provides a

regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child.<sup>1</sup>

Florida law also provides that it is the intent of the legislature to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care.<sup>2</sup> To further that intent, laws were enacted to:

- Establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to provide for enforcement to regulate conditions in such facilities through a program of licensing; and<sup>3</sup>
- Require that all owners, operators, and child care personnel shall be of good moral character.<sup>4</sup>

### **Child Care**

Child care is defined as the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.<sup>5</sup>

Child care is typically thought of as care and supervision for children under school age. Legislative intent related to child care finds that many parents with children under age 6 are employed outside the home.<sup>6</sup> The definition of child care does not specify a maximum or minimum age.

Florida law and administrative rules related to child care recognize that families may also have a need for care and supervision for children of school age:

- A school-age child care program is defined as any licensed child care facility serving school-aged children<sup>7</sup> or any before and after school programs that are licensed as a child care facility and serve only school-aged children.<sup>8</sup>
- Any of the after school programs accepting children under the age of the school-age child must be licensed.<sup>9</sup>
- An after school program serving school-age children is not required to be licensed if the program provides after school care exclusively for children in grades six and above and complies with the minimum background screening requirements.<sup>10</sup>

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<sup>1</sup> Section 402.26, F.S.

<sup>2</sup> Section 402.301, F.S.

<sup>3</sup> Sections 402.301 - 402.319, F.S.

<sup>4</sup> Good moral character is based upon screening that shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter. *See* s. 402.305, F.S.

<sup>5</sup> Section 402.302, F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Chapter 65C-22.008, F.A.C. "School-age child" means a child who is at least five years of age by September 1st of the beginning of the school year and who attends kindergarten through grade five.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

## Child Care Facilities

The term “child care facility” is defined to include any child care center or child care arrangement that cares for more than five children unrelated to the operator and receives a payment, fee, or grant for the children receiving care, wherever the facility is operated and whether it is operated for profit or not for profit.<sup>11</sup> The definition excludes the following:

- Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.;
- Summer camps having children in full-time residence;
- Summer day camps;
- Bible schools normally conducted during vacation periods; and
- Operators of transient establishments, as defined in chapter 509, F.S.,<sup>12</sup> which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel are screened according to the level 2 screening requirements of chapter 435, F.S.<sup>13</sup>

Every child care facility in the state is required to have a license that is renewed annually. The Department of Children and Families (DCF or department) or the local licensing agencies<sup>14</sup> approved by the department are the entities responsible for the licensure of such child care facilities.<sup>15</sup>

## Additional Exemptions

In 1974 and in 1987, the legislature created additional exceptions to the stated intent to protect the health, safety, and well-being of the children by allowing specified entities to care for children without meeting state licensure standards.

Child care facilities that are an integral part of church or parochial schools and meet specified criteria are exempt from licensing standards but must conduct background screening of their personnel. Failure by a facility to comply with such screening requirements shall result in the loss of the facility’s exemption from licensure.<sup>16</sup>

The exemption for membership organizations<sup>17</sup> was broader and allowed personnel to have contact with children without being background screened.<sup>18</sup>

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<sup>11</sup> Section 402.302, F.S.

<sup>12</sup> “Transient public lodging establishing” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

<sup>13</sup> Section 402.302, F.S.

<sup>14</sup> Currently, there are 5 counties that regulate child care programs: Broward, Hillsborough, Palm Beach, Pinellas and Sarasota. Department of Children and Families, 2015 Agency Legislative Bill Analysis. HB 11, December 8, 2014.

<sup>15</sup> Section 402.308, F.S.

<sup>16</sup> Section 402.316, F.S.

<sup>17</sup> Membership organizations would include such groups as Big Brothers Big Sisters, Boys and Girls Clubs, YMCA’s, and Boy Scouts or Girl Scouts.

<sup>18</sup> Chapters 74-113 and 87-238, Laws of Florida.

### **Attorney General Advisory Legal Opinion**

In 2000, the Florida Office of the Attorney General issued an opinion relating to the issue of child care, child care facilities and licensure. At issue was whether or not the child care programs operated by the YMCA or other membership organizations were exempt from licensure by the department as child care facilities. The opinion issued stated that programs operated by YMCAs and other membership organizations that fall within the definition of a “child care program”, are not exempt from licensure by the Department of Children and Families.<sup>19</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 402.301, F.S., related to legislative intent and policy, by requiring that membership organizations that provide child care services are subject to licensing requirements and minimum standards for child care facilities.

**Section 2** amends s. 402.302, F.S., related to child care facilities, by defining an after-school program as a program offering child care for school-age children during out of school times, including but not limited to, before school or after school.

The bill specifically provides the following exceptions to the term ‘after-school program:’

- A program on a school site that is operated by a school or through a formal agreement between the school and a provider to serve children who attend the school;,
- All programs that are solely instructional or tutorial;
- Open-access programs<sup>20</sup>; and
- Programs providing child care exclusively for children in grades 6 through 12 that do not hold a Gold Seal Quality Care designation under s. 402.281, F.S.<sup>21</sup>

**Section 3** amends s. 402.305, F.S., by removing a requirement that DCF adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after school programs that do not require licensure.

**Section 4** amends s. 39.201, F.S., to correct a cross reference to a provision in s. 402.302, F.S., relating to child care facilities.

**Section 5** amends s. 402.317, F.S., to correct a cross reference to a provision in s. 402.302, F.S., F.S., relating to child care facilities.

**Section 6** amends s. 435.07, F.S., to correct a cross reference to a definition in s. 402.302, F.S., relating to child care facilities.

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<sup>19</sup> Florida Office of the Attorney General. Advisory Legal Opinion, Number AGO 2000-67. November 17, 2000.

<sup>20</sup> Open-access programs or institutions are generally considered programs open to receiving all potential applicants; however, the term is not currently defined in any provision of the Florida Statutes.

<sup>21</sup> A child care facility, large family child care home, or family day care home that is accredited by an accrediting association approved by the department are able to receive a separate “Gold Seal Quality Care” designation, subject to requirements set forth in s. 402.281, F.S., and in rule though the Florida Administrative Code.



**Section 7** amends s. 1002.82, F.S., to correct a cross reference to a provision in s. 402.302, F.S., relating to child care facilities.

**Section 8** amends s. 1002.88, F.S., to correct a cross reference to a provision in s. 402.302, F.S., relating to child care facilities.

**Section 9** provides an effective date of July 1, 2018.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

Membership organizations currently providing child care services will likely need to pay licensure fees to DCF as they will be required to obtain licensure as child care facilities.

**B. Private Sector Impact:**

Membership organizations requiring licensure under the bill may need to make changes to their practices and/or facilities to achieve and maintain proper licensure standards. The impact of such changes is indeterminate.

**C. Government Sector Impact:**

The bill may lead some membership organizations currently providing child care services to refrain from doing so, and children currently served by those organizations might need to be absorbed by school-operated programs, which may have an indeterminate impact on schools.

#### **VI. Technical Deficiencies:**

The term “open-access program” used in the amended provision of s. 402.302, F.S., is not defined in chapter 402, F.S., nor anywhere else in statute.

**VII. Related Issues:**

The provision that requires certain membership organizations be licensed as child care facilities is found in a legislative intent section of the law. The effect of that placement is that the legislature “intended” for certain membership organizations to be licensed as child care facilities, but there is no provision in the substantive law actually requiring these organizations to obtain licensure. Substantive provisions should not be included in an intent section.<sup>22</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 402.301, 402.302, 402.305, 39.201, 402.317, 435.07, 1002.82, and 1002.88

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>22</sup> The Florida Senate, Office of Bill Drafting Services. Manual for Drafting Legislation. Sixth Edition. 2009



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Children, Families, and Elder Affairs (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 32 - 92  
and insert:  
membership organizations that provide child care must be  
licensed as a child care facility as required under this  
chapter. Notwithstanding licensure, all personnel as defined in  
s. 402.302 of such membership organizations shall meet  
background screening requirements through the department  
pursuant to ss. 402.305 and 402.3055.



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Section 2. Present subsections (1) through (14) of section 402.302, Florida Statutes, are redesignated as subsections (2) through (15), respectively, a new subsection (1) is added to that section, present subsections (1) and (2) of that section are amended, present subsections (15) through (18) of that section are redesignated as subsections (17) through (20), respectively, and a new subsection (16) is added to that section, to read:

402.302 Definitions.—As used in this chapter, the term:

(1) "After-school program" means child care for school-age children during out-of-school times, including, but not limited to, before school or after school, school breaks, and inservice planning days.

(a) The term includes, but is not limited to, a program that does not require a parent to be in attendance while the child is at the facility and satisfies three or more of the following elements:

1. Provides transportation to or from the facility where the program is offered.

2. Provides meals or snacks to children participating in the program.

3. Provides more than one type of activity, including but not limited to educational, artistic, athletic, or self-directed activities.

4. Provides tutoring or homework assistance, or includes a specific time for children to complete homework while at the program.

5. Advertises or holds itself out as providing child care or being an after-school program.



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40       6. Takes children on field trips.

41       (b) The term does not include:

42       1. A program on a public or nonpublic school site which is  
43 operated and staffed directly by the school or through a formal  
44 agreement between the school and a provider to serve children  
45 who attend that school. A lease for space or user agreement is  
46 not considered a formal agreement.

47       2. A program that is solely instructional or tutorial.

48       3. An open-access program. For purposes of this  
49 subparagraph, the term "open-access program" means a program  
50 that allows children to come and go at will. Such a program may  
51 not serve children for more than 4 hours per regular school day;  
52 may not advertise or otherwise represent that it provides child  
53 care or after school care, is an after-school program, or offers  
54 supervision; may not provide supervision; may not provide  
55 transportation, directly or indirectly; may not provide meals or  
56 snacks outside of the federal Afterschool Meal Program; and may  
57 not deliver a school readiness program pursuant to s. 1002.88.

58       4. A program that does not hold a Gold Seal Quality Care  
59 designation under s. 402.281 which provides child care  
60 exclusively for children in grades 6 through 12.

61       (2)(1) "Child care" means the care, protection, and  
62 supervision of a child, for a period of less than 24 hours a day  
63 on a regular basis, which supplements parental care, enrichment,  
64 and health supervision for the child, in accordance with his or  
65 her individual needs, and for which a payment, fee, or grant is  
66 made for care. A nominal membership fee constitutes a fee for  
67 care. Child care may also include, but is not limited to,  
68 providing transportation, food services, educational activities,



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and instructional activities.

~~(3)(2)~~ "Child care facility" includes any child care center after school program or child care arrangement ~~that~~ ~~which~~ provides child care for more than five children unrelated to the operator and ~~which~~ receives a payment, fee, or grant for any of the children receiving care, wherever operated, regardless of ~~and~~ whether ~~or not~~ operated for profit. The following are not included:

(a) Public schools and nonpublic schools and ~~their integral~~ programs that operate during regular school hours, except for programs ~~as~~ provided in s. 402.3025;

(b) Summer camps having children in full-time residence;

(c) Summer day camps;

(d) Bible schools normally conducted during vacation periods; and

(e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.

(16) "School age child" means a child who is at least 5 years of age and no older than 12 years of age by September 1 of the beginning of the school year who is enrolled in kindergarten or a higher grade.

Section 3. Paragraph (c) of subsection (1) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(1) LICENSING STANDARDS.—The department shall establish licensing standards that each licensed child care facility must



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meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility.

(c) The minimum standards for child care facilities shall be adopted in the rules of the department and shall address the areas delineated in this section.

1. The department, in adopting rules to establish minimum standards for child care facilities, shall recognize that different age groups of children may require different standards. The department may adopt different minimum standards for facilities that serve children in different age groups, including school-age children. ~~The department shall also adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure.~~

2. Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care.

3. ~~After-school~~ Programs that otherwise meet the criteria for exclusion from child care licensure as an after-school program may provide snacks and meals through the federal Afterschool Meal Program (AMP) administered by the Department of Health in accordance with federal regulations and standards. The Department of Health shall consider meals to be provided through the AMP only if the program is actively participating in the AMP, is in good standing with the department, and the meals meet AMP requirements.

4. Standards, at a minimum, shall allow for a credentialed



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director to supervise multiple ~~before-school and~~ after-school  
program sites.

(6) SQUARE FOOTAGE PER CHILD.—Minimum standards shall be  
established by the department by rule.

(a) A child care facility that holds a valid license on  
October 1, 1992, must have a minimum of 20 square feet of usable  
indoor floor space for each child and a minimum of 45 square  
feet of usable outdoor play area for each child. Outdoor play  
area shall be calculated at the rate of 45 feet per child in any  
group using the play area at one time. A minimum play area shall  
be provided for one half of the licensed capacity. This standard  
applies as long as the child care facility remains licensed at  
the site occupied on October 1, 1992, and shall not be affected  
by any change in the ownership of the site.

(b)1. A child care facility that does not hold a valid  
license on October 1, 1992, and seeks regulatory approval to  
operate as a child care facility must have a minimum of 35  
square feet of usable floor space for each child and a minimum  
of 45 square feet of usable outdoor play area for each child.

2. A membership organization affiliated with a national  
organization which is licensed after July 1, 2018, and before  
June 30, 2020, for an after-school program, is exempt from  
facility requirements related to square footage for usable  
indoor floor space, square footage for usable outdoor play area,  
and restroom and bath facilities. Such an organization that  
remodels its facility or begins using a new facility on or after  
July 1, 2020, shall meet the square footage requirements for  
usable indoor floor space and usable outdoor play area specified  
in subparagraph (b)1., and any restroom and bath facility





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requirements specified by rule.

The minimum standard for outdoor play area does not apply in calculating square footage for children under 1 year of age. However, appropriate outdoor infant equipment shall be substituted for outdoor play space. The centers shall provide facilities and equipment conducive to the physical activities appropriate for the age and physical development of the child.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 7

and insert:

school program"; revising definitions of the terms "child care" and "child care facility"; amending s. 402.305, F.S.; providing exemptions from facility requirements; conforming

By Senator Hutson

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A bill to be entitled

An act relating to licensure of child care programs; amending s. 402.301, F.S.; requiring certain organizations offering child care through after-school programs to be licensed as child care facilities; amending s. 402.302, F.S.; defining the term "after-school program"; amending s. 402.305, F.S.; conforming provisions to changes made by the act; amending ss. 39.201, 402.317, 435.07, 1002.82, and 1002.88, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 402.301, Florida Statutes, is amended to read:

402.301 Child care facilities; legislative intent and declaration of purpose and policy.—It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care. Toward that end:

(6) It is further the intent that membership organizations affiliated with national organizations which do not provide child care, whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance

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with the association's minimum standards and procedures shall not be considered child care facilities. However, such membership organizations that provide child care, including, but not limited to, child care offered through an after-school program, must be licensed as a child care facility as required under this chapter. Notwithstanding licensure or registration status, all personnel as defined in s. 402.302 of such membership organizations shall meet background screening requirements through the department pursuant to ss. 402.305 and 402.3055.

Section 2. Subsections (1) through (18) of section 402.302, Florida Statutes, are redesignated as subsections (2) through (19), respectively, and a new subsection (1) is added to that section, to read:

402.302 Definitions.—As used in this chapter, the term:

(1) "After-school program" means a program that offers child care for school-age children during out-of-school times, including, but not limited to, before school or after school. The term does not include:

(a) A program on a school site that is operated by the school or through a formal agreement between the school and a provider to serve children who attend that school.

(b) A program that is solely instructional or tutorial.

(c) An open-access program.

(d) A program that provides child care exclusively for children in grades 6 through 12 and does not hold a Gold Seal Quality Care designation under s. 402.281.

Section 3. Paragraph (c) of subsection (1) of section 402.305, Florida Statutes, is amended to read:

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402.305 Licensing standards; child care facilities.—

(1) LICENSING STANDARDS.—The department shall establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility.

(c) The minimum standards for child care facilities shall be adopted in the rules of the department and shall address the areas delineated in this section.

1. The department, in adopting rules to establish minimum standards for child care facilities, shall recognize that different age groups of children may require different standards. The department may adopt different minimum standards for facilities that serve children in different age groups, including school-age children. ~~The department shall also adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure.~~

2. Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care.

3. ~~After-school~~ Programs that otherwise meet the criteria for exclusion from child care licensure as an after-school program may provide snacks and meals through the federal Afterschool Meal Program (AMP) administered by the Department of Health in accordance with federal regulations and standards. The Department of Health shall consider meals to be provided through the AMP only if the program is actively participating in the

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AMP, is in good standing with the department, and the meals meet AMP requirements.

4. Standards, at a minimum, shall allow for a credentialed director to supervise multiple ~~before-school and after-school~~ program sites.

Section 4. Subsection (6) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s.

39.202(2)(a) and (h) or s. 402.302(16) ~~s. 402.302(15)~~.

Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(g), the information in the central abuse hotline may also be used by the Department of Education for purposes of educator certification discipline and review.

Section 5. Section 402.317, Florida Statutes, is amended to read:

402.317 Prolonged child care.—Notwithstanding the time restriction specified in s. 402.302(2) ~~s. 402.302(1)~~, child care may be provided for 24 hours or longer for a child whose parent or legal guardian works a shift of 24 hours or more. The requirement that a parent or legal guardian work a shift of 24 hours or more must be certified in writing by the employer, and

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the written certification shall be maintained in the facility by the child care provider and made available to the licensing agency. The time that a child remains in child care, however, may not exceed 72 consecutive hours in any 7-day period. During a declared state of emergency, the child care licensing agency may temporarily waive the time limitations provided in this section.

Section 6. Paragraph (c) of subsection (4) of section 435.07, Florida Statutes, is amended to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(c) Disqualification from employment under this chapter may not be removed from, and an exemption may not be granted to, any current or prospective child care personnel, as defined in s. 402.302(4) ~~s. 402.302(3)~~, and such a person is disqualified from employment as child care personnel, regardless of any previous exemptions from disqualification, if the person has been registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been arrested for and is awaiting final disposition of, has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or a similar

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law of another jurisdiction:

1. A felony offense prohibited under any of the following statutes:

a. Chapter 741, relating to domestic violence.

b. Section 782.04, relating to murder.

c. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

d. Section 784.021, relating to aggravated assault.

e. Section 784.045, relating to aggravated battery.

f. Section 787.01, relating to kidnapping.

g. Section 787.025, relating to luring or enticing a child.

h. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

i. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

j. Section 794.011, relating to sexual battery.

k. Former s. 794.041, relating to sexual activity with or solicitation of a child by a person in familial or custodial authority.

l. Section 794.05, relating to unlawful sexual activity with certain minors.

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175 m. Section 794.08, relating to female genital mutilation.  
 176 n. Section 806.01, relating to arson.  
 177 o. Section 826.04, relating to incest.  
 178 p. Section 827.03, relating to child abuse, aggravated  
 179 child abuse, or neglect of a child.  
 180 q. Section 827.04, relating to contributing to the  
 181 delinquency or dependency of a child.  
 182 r. Section 827.071, relating to sexual performance by a  
 183 child.  
 184 s. Chapter 847, relating to child pornography.  
 185 t. Section 985.701, relating to sexual misconduct in  
 186 juvenile justice programs.  
 187 2. A misdemeanor offense prohibited under any of the  
 188 following statutes:  
 189 a. Section 784.03, relating to battery, if the victim of  
 190 the offense was a minor.  
 191 b. Section 787.025, relating to luring or enticing a child.  
 192 c. Chapter 847, relating to child pornography.  
 193 3. A criminal act committed in another state or under  
 194 federal law which, if committed in this state, constitutes an  
 195 offense prohibited under any statute listed in subparagraph 1.  
 196 or subparagraph 2.  
 197 Section 7. Paragraph (w) of subsection (2) of section  
 198 1002.82, Florida Statutes, is amended to read:  
 199 1002.82 Office of Early Learning; powers and duties.—  
 200 (2) The office shall:  
 201 (w) Establish staff-to-children ratios that do not exceed  
 202 the requirements of s. 402.302(9) or (12) ~~s. 402.302(8) or (11)~~  
 203 or s. 402.305(4), as applicable, for school readiness program

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204 providers.  
 205 Section 8. Paragraph (e) of subsection (1) of section  
 206 1002.88, Florida Statutes, is amended to read:  
 207 1002.88 School readiness program provider standards;  
 208 eligibility to deliver the school readiness program.—  
 209 (1) To be eligible to deliver the school readiness program,  
 210 a school readiness program provider must:  
 211 (e) Employ child care personnel, as defined in s.  
 212 402.302(4) ~~s. 402.302(3)~~, who have satisfied the screening  
 213 requirements of chapter 402 and fulfilled the training  
 214 requirements of the office.  
 215 Section 9. This act shall take effect July 1, 2018.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1650

INTRODUCER: Senator Montford

SUBJECT: Child Abuse, Abandonment, and Neglect

DATE: January 30, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	<b>Fav/CS</b>
2.			GO	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1650 makes a number changes to ch. 39, relating to dependency proceedings for children, to improve coordination and communication among parties in dependency proceedings and adds accountability measures to remove barriers to, and expedite permanency for, abused and neglected children. Specifically, the bill:

- Revises grounds for termination of parental rights, changes notice to parents regarding these grounds, limits the continuances available, expedites service referrals, and increases the frequency of hearings.
- Adds the requirement that a parent notify the parties or the court of barriers to compliance with a case plan task soon after discovering the barrier. If a parent fails to do so, he or she cannot cite the barrier as a reason for noncompliance when the court is considering termination of his or her parental rights. Once notified of the barrier, DCF must provide parents with strategies to overcome them.
- Requires the Department of Children and Families (DCF or department) to make service referrals sooner and increase reporting to the court on case progress. It limits continuances by the court's own motion and requires more frequent permanency hearings after the child has been in out-of-home care for 12 months but has not achieved permanency.

CS/SB 1650 also amends s. 39.202, F.S., relating to confidentiality of reports and records in cases of child abuse or neglect, to protect the confidentiality of instructional personnel as defined in s. 1012.01(2), F.S., school administrators as defined in s. 1012.01(3)(c), F.S., and educational support employees as defined in s.1012(6)(a), F.S., who have provided information as collateral

contacts to child protective investigators, even if the individual was not the individual reporting the alleged maltreatment to the Hotline.

The bill has no impact on state or local government and has an effective date of July 1, 2018.

## **II. Present Situation:**

### **Permanency for Children in the Child Welfare System**

When children are placed in out-of-home care, it is critical that child welfare agencies find safe, permanent homes for them as quickly as possible. In most circumstances, children can be reunited with their families, but in some cases children find homes with relatives, fictive kin, or adoptive families. Both federal and state laws provide requirements related to permanency for children.<sup>1</sup>

Many of the federal requirements related to the dependency process can be traced to the Adoption and Safe Families Act (ASFA) of 1997. The ASFA expanded the use of detailed case planning, while emphasizing the well-being of children at all critical points during the dependency case process. It further requires that states make timely decisions regarding permanency. The permanency goal is enforced primarily via a requirement that states terminate the parental rights of children who have spent 15 or more months of the past 22 months in foster care.<sup>2</sup>

Current Florida law requires the court to set at least one permanency goal for a child. If that goal is reunification with the child's parent, it may also set a second concurrent goal to provide more options for the child. A "permanency goal" is defined as the living arrangement identified for the child to return to or identified as the permanent living arrangement of the child.<sup>3</sup> Permanency goals available under this chapter, listed in order of preference, are::

- Reunification;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship of a dependent child;
- Permanent placement with a fit and willing relative; and
- Placement in another planned permanent living arrangement.

The goal of maintaining and strengthening the placement with the child's parent is also an option under certain circumstances, such as when the child has been reunified with a parent but the case is still under the court's jurisdiction. The court must hold hearings at least every 12 months to assess progress toward

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<sup>1</sup> U.S. Department of Health & Human Services, Administration for Children & Families, Children's Bureau, Child Welfare Information Gateway, *Achieving and Maintaining Permanency*, available at: <https://www.childwelfare.gov/topics/permanency/> (last visited January 30, 2018).

<sup>2</sup> Adoption and Safe Families Act of 1997, P. L. No. 105-89, H.R. 867, 105th Cong. (1997).

<sup>3</sup> Section 39.01(53), F.S.

## Reasonable Efforts

Beginning with the Adoption Assistance and Child Welfare Act of 1980,<sup>4</sup> federal law has required states to show, except in certain circumstances such as where the parent committed an especially egregious act, that they have made “reasonable efforts” to provide assistance and services to prevent a child’s removal or to reunify a child with his or her family prior to terminating parental rights. The Adoption and Safe Families Act of 1997 stated, however, that the child’s health and safety are the primary concern when assessing the degree to which a state has to go in order to demonstrate making reasonable efforts.<sup>5</sup>

Ch. 39, F.S., addresses the issue of reasonable efforts by --the department. That section states that the department’s failure to make reasonable efforts to reunify the parent and child may excuse the parent’s noncompliance with the case plan, leading to invalidate such noncompliance as grounds for a termination of his or her rights. However, the section also allows a court to exempt DCF from having to make reasonable efforts to preserve and reunify families if the parents have engaged in certain conduct, such as subjecting the child to aggravated child abuse or murdering the child’s sibling; or if the court has taken certain actions, such as involuntarily terminating the parent’s rights to the child’s sibling.<sup>6</sup>

## Case Plans

Throughout the dependency process, DCF must develop and refine a case plan with input from all parties to the dependency case that details the problems being addressed as well as the goals, tasks, services, and responsibilities required to ameliorate the concerns of the state.<sup>7</sup> The case plan follows the child from the provision of voluntary services through dependency, or termination of parental rights. Once a child is found dependent, a judge reviews the case plan, and if the judge accepts the case plan as drafted, orders the case plan to be followed.<sup>8</sup>

Specifically, the law provides for:

- The development of the case plan and who must be involved, such as the parent, guardian ad litem, and if appropriate, the child. This section also details;<sup>9</sup>
- What must be included in the case plan, such as descriptions of the identified problems, the permanency goal, timelines, and notice requirements; and<sup>10</sup>
- The types of tasks and services that must be provided to the parents as well as the type of care that must be provided to the child. The services must be designed to improve the conditions in the home, facilitate the child’s safe return to the home, ensure proper care of the child, and facilitate permanency.<sup>11</sup>

When determining whether to place a child back into the home he or she was removed from, or whether to move forward with another permanency option, the court seeks to determine whether

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<sup>4</sup> Adoption Assistance and Child Welfare Act of 1980, P. L. No. 96-272, H.R. 3434, 96th Cong. (1980).

<sup>5</sup> Adoption and Safe Families Act of 1997, P. L. No. 105-89, H.R. 867, 105th Cong. (1997).

<sup>6</sup> Section 39.806, F.S.

<sup>7</sup> Sections 39.6011 and 39.6012, F.S.

<sup>8</sup> Section 39.521, F.S.

<sup>9</sup> Section 39.6011, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 39.6012, F.S.



the circumstances that caused the out-of-home placement have been remedied to the extent that the safety, well-being and health of the child are not endangered by an in-home placement.<sup>12</sup> To support ]the permanency goal, the court continues to monitor a parent's efforts to comply with the tasks assigned in the case plan.<sup>13</sup>

### **Parental Responsibilities and Terminations of Parental Rights**

Parents involved in the child welfare system have a number of responsibilities they must carry out in order to be reunified with their children, if that is a permanency goal. A primary responsibility is to comply with the case plan. Lack of compliance with the case plan requirements is grounds for termination of parental rights--specifically, a parent's failure to have substantially complied for 12 months after the child's adjudication of dependency or when a child has been in care for 12 of the last 22 months, or a parent's materially breaching the case plan such that noncompliance is likely before the expiration of time to comply. However, generally, if the noncompliance was due to the parent's lack of financial resources or the department's failure to make reasonable efforts, grounds for termination are not established.<sup>14</sup>

Section 39.6011, F.S., requires the case plan to contain a written notice that a parent's noncompliance with the case plan may lead to the termination of his or her parental rights. This message is also delivered by the judge during the hearing on the child's placement in a shelter and<sup>15</sup> the adjudicatory hearing.<sup>16</sup>

### **State Specific Factors Affecting Permanency**

The federal Department of Health and Human Services, through the Children's Bureau, conducts periodic Child and Family Services Reviews (CFSR) in each state. As authorized by federal law, these reviews assess states' compliance with the federal requirements for child welfare systems in Title IV-B and Title IV-E of the Social Security Act. In particular, the Children's Bureau examines whether desired child outcomes are being achieved and whether the child welfare system is structured appropriately and its processes operate effectively. These have been taking place every four years.

The report summarizing Florida's results from the third round of reviews was issued in late 2016. The report indicated the following related to achieving permanency:

- Despite establishing timely and appropriate permanency goals, case review results found that agencies and courts struggle to make concerted efforts to achieve identified permanency goals in a timely manner.
- Delays in achieving reunification and guardianship goals are affected by case plans not being updated timely to reflect the current needs of the family, delays in referral for services, and failure to engage parents.
- The agency and court do not make concerted efforts to achieve the goal of adoption timely in nearly half of applicable cases.

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<sup>12</sup> Section 39.522, F.S.

<sup>13</sup> Section 39.621, F.S.

<sup>14</sup> Section 39.806, F.S.

<sup>15</sup> Section 39.402, F.S.

<sup>16</sup> Section 39.507, F.S.

- Barriers affecting timely adoptions include the lack of concurrent planning when a parent's compliance level is minimal, and providing parents additional time to work on case plan goals.
- In over half of applicable cases, the agency failed to make concerted efforts to provide services, removed children without providing appropriate services, or did not monitor safety plans and engage the family in needed safety-related services.<sup>17</sup>

The report also concluded that there are concerns with gaps in key services, long waiting lists, insurance barriers, and an inability to tailor services to meet the cultural needs of the diverse population. Substance abuse and domestic violence are the main reasons for the agency's involvement in many cases. The review found that substance abuse, in particular, contributes to various safety concerns for children. Stakeholders noted that there are major gaps in services to address both substance abuse and domestic violence in the non-metro areas of the state.<sup>18</sup>

### **Confidentiality of Records**

Section 39.202, F.S., currently only protects the confidentiality (i.e., identity or name) of the individual who reported the alleged abuse or neglect to the Florida Abuse Hotline (Hotline). There are currently no provisions for protecting the confidentiality of any individual who has shared information with a child protective investigator because of being interviewed as part of the investigative process.

### **Collateral Contacts**

Collateral contacts in a child abuse investigation can include the referral source, other family members, and other community professionals who have contact with the family or people in the community, whose contact with one of the family members may have given them knowledge that would relate to the family situation. Collateral contacts may be able to provide information such as identifying information – full name, dates of birth/age, address, parents' names and social security numbers – as well as information about family dynamics and relationships.

### **School Personnel**

School personnel, particularly teachers and school nurses, can be excellent sources of corroborating information that can help confirm or deny the allegation being considered. They are often able to provide information on children's behaviors, have insight into the child's relationship with his or her family members or have observed medical or psychological conditions that might be associated with the allegations of abuse or neglect.

## **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 39.001, F.S., relating to purposes of chapter, to recognize the responsibility of the parent of a child who has been placed into out-of-home care, the department

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<sup>17</sup> U.S. Department Of Health And Human Services, Children's Bureau, Child and Family Services Reviews, Florida Final Report, 2016, *available at*: <http://www.centerforchildwelfare.org/qa/CFSRTools/2016%20CFSR%20Final%20Report.pdf>. (last visited Jan.30, 2018).

<sup>18</sup> *Id.*

and its community-based providers and the court to achieve timely permanency for the child. It also provides that the guardian ad litem or attorney ad litem's name must be entered on all orders of the court so that a child will have the ability to contact his or her guardian ad litem and requires parents to take action to comply with the case plan, including notifying the department and the court of barriers to case plan compliance.

**Section 2.** Amends s. 39.0136, F.S., relating to time limitations; continuances, to require the department to ensure parents have contact information for the caseworker and updated contact information when the caseworker changes. It also provides that the court may deny a request for an extension of time to achieve case plan compliance if the parent failed to notify the parties of a barrier to completion of the case plan.

**Section 3.** Amends s. 39.202, F.S., relating to confidentiality of child abuse and neglect records and reports, to protect the confidentiality of instructional personnel as defined in s.1012.01(2), F.S., school administrators as defined in s. 1012.01(3)(c), F.S., and educational support employees as defined in s.1012(6)(a), F.S., who have provided information to child protective investigators, even if the individual was not the individual reporting the alleged maltreatment to the Hotline.

**Section 4.** Amends s. 39.402, F.S., relating to placement in a shelter, to require the court order to specify the new court day for the continued hearing when a continuance or extension of time is granted. It also requires the court in plain language to advise the parents what is expected of them to achieve reunification with their children.

**Section 5.** Amends s. 39.507, F.S., relating to adjudicator hearings and orders of adjudication, to require the parents to provide identification and location information on relatives identified as a potential placement for the child.

**Section 6.** Amends s. 39.521, F.S., relating to disposition hearings and powers of disposition, to clarify current language related to provision of copies of the case plan.

**Section 7.** Amends s. 39.522, F.S., relating to postdisposition change of custody, to provide that any time before a child achieves the permanency option approved at the permanency hearing, a child may be brought before the court by the department or any additional interested person upon a filing of a motion alleging a need for a change in the conditions of protective supervision or in the placement.

**Section 8.** Amends s. 39.6011, F.S., relating to case plan development, to require parents to notify the parties of any barriers to completion of the case plan. It also requires the department to work with the parent to overcome any barrier to case plan completion and requires that service referrals be completed not more than 7 days after case plan approval with exceptions.

**Section 9.** Amends s. 39.6012, F.S., relating to case plan tasks; services, to require the case plan to include strategies for overcoming barriers to case plan completion and to require parents to notify the parties if a new barrier is discovered.

**Section 10.** Amends s. 39.6013, F.S., relating to case plan amendments, to conform a reference to changes made by the act.

**Section 11.** Amends s. 39.621, F.S., relating to permanency determination by the court, to provide that if the court determines that the child's goal is appropriate but the child will be in out-of-home care for more than 12 months before achieving permanency, in those cases where the goal is reunification or adoption, the court shall hold permanency status hearings for the child every 60 days until the child reaches permanency or the court makes a determination that it is in the child's best interest to change the permanency goal.

**Section 12.** Amends s. 39.701, F.S., relating to judicial review, to provide that if concurrent planning is already being used, the department must file with the court, and serve on all parties, a motion to amend the case plan to reflect the concurrent goal as the child's primary permanency goal, document the efforts the department is taking to complete the concurrent goal, and identify any additional services needed to reach the permanency goal by a date certain. The court may allow the parties to continue to pursue a secondary goal if the court determines that is in the best interest of the child.

**Section 13.** Amends s. 39.806, F.S., relating to grounds for termination of parental rights, to clarify that a parent may materially breach a case plan by their action or inaction.

**Section 14.** Amends s. 39.811, F.S., relating to powers of disposition; order of disposition, to require the court to enter a written order of disposition within 30 days after the conclusion of the hearing to terminate parental rights.

**Section 15.** Provides an effective date of July 1, 2018.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Staff of contracted entities may have an additional workload related to expedited timeframes for referrals and attending the additional hearings mandated by the bill.

**C. Government Sector Impact:**

The bill has an indeterminate impact on the state court system due to the higher frequency of hearings regarding permanency.

The bill has an indeterminate impact on DCF. To the degree it expedites permanency for children, the system may experience a cost savings due to the shorter time in care. Alternatively, to the degree there is a higher number of terminations of parental rights rather than reunifications and subsequently children do not achieve permanency and instead remain in care, costs could increase.

The department would need to provide training to those individuals responsible for redacting confidential information prior to release of records as allowed and defined in s. 39.202(2)(d), F.S., to make sure school personnel identified in 39.202, F.S., are also afforded the same confidentiality protections as reporters of alleged maltreatment to the Hotline. In addition, there may be minimal impact on the workload of those who redact records. The training and redaction of records is considered a part of doing business and can be absorbed within existing resources.<sup>19</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends ss. 39.001, 39.016, 39.202, 39.402, 39.507, 39.521, 39.522, 39.6011, 39.6012, 39.6013, 39.621, 39.701, 39.806, and 39.811 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on January 29, 2018:**

The amendment does the following:

- Makes a number changes to ch. 39, relating to dependency proceedings for children, to improve coordination and communication among parties in dependency

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<sup>19</sup> The Department of Children and Families, 2018 Agency Legislative Bill analysis, SB 1650. January 23, 2018.

proceedings and add accountability measures to remove barriers to, and expedite permanency for, abused and neglected children.

- Revises grounds for termination of parental rights, changes notice to parents regarding these grounds, limits the continuances available, expedites service referrals, and increases the frequency of hearings.
- Adds the requirement that a parent notify the parties or the court of barriers to compliance with a case plan task soon after discovering the barrier. If a parent fails to do so, he or she cannot cite the barrier as a reason for noncompliance when the court is considering termination of his or her parental rights. Once notified of the barrier, DCF must provide parents with strategies to overcome them.
- Requires the department to make service referrals sooner and increase reporting to the court on case progress. It limits continuances by the court's own motion and requires more frequent permanency hearings after the child has been in out-of-home care for 12 months but has not achieved permanency.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
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	.	
	.	

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The Committee on Children, Families, and Elder Affairs  
(Montford) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (7) of section 39.001, Florida  
Statutes, is amended, and paragraph (q) is added to subsection  
(1) and paragraph (j) is added to subsection (3) of that  
section, to read:

39.001 Purposes and intent; personnel standards and  
screening.—



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(1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

(q) To recognize the responsibility of:

1. The parent from whose custody a child has been taken to take action to comply with the case plan so reunification with the child may occur within the shortest period of time possible, but not more than 1 year after removal or adjudication of the child.

2. The department and its community-based care providers to make reasonable efforts to finalize a family's permanency plan, including assisting parents with developing strategies to overcome barriers to case plan compliance.

3. The court to affirmatively determine what the barriers are to timely reunification, and address such barriers as frequently as needed to ensure compliance with the time limitations established in this chapter.

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(j) The ability to contact their guardian ad litem or attorney ad litem, if appointed, by having that individual's name entered on all orders of the court.

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the





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state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding. The Legislature also recognizes that time is of the essence for establishing permanency for a child in the dependency system. Therefore, parents must take action to comply with the case plan so reunification with the child may occur within the shortest period of time possible, but not more than 1 year after removal or adjudication of the child, including by notifying the parties and the court of barriers to case plan compliance.

Section 2. Section 39.0136, Florida Statutes, is amended to read:

39.0136 Time limitations; continuances.—

(1) The Legislature finds that time is of the essence for establishing permanency for a child in the dependency system. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party except as provided in this section.

(2)(a) All parties and the court must work together to ensure that permanency is achieved as soon as possible for every child through timely performance of their responsibilities under this chapter.

(b) The department shall ensure that parents have the information necessary to contact their caseworker. When a new caseworker is assigned to a case, the caseworker shall make a timely and diligent effort to notify the parent and provide updated contact information.



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69        (3)~~(2)~~ The time limitations in this chapter do not include:

70            (a) Periods of delay resulting from a continuance granted  
71 at the request of the child's counsel or the child's guardian ad  
72 litem or, if the child is of sufficient capacity to express  
73 reasonable consent, at the request or with the consent of the  
74 child. The court must consider the best interests of the child  
75 when determining periods of delay under this section.

76            (b) Periods of delay resulting from a continuance granted  
77 at the request of any party if the continuance is granted:

78            1. Because of an unavailability of evidence that is  
79 material to the case if the requesting party has exercised due  
80 diligence to obtain evidence and there are substantial grounds  
81 to believe that the evidence will be available within 30 days.  
82 However, if the requesting party is not prepared to proceed  
83 within 30 days, any other party may move for issuance of an  
84 order to show cause or the court on its own motion may impose  
85 appropriate sanctions, which may include dismissal of the  
86 petition.

87            2. To allow the requesting party additional time to prepare  
88 the case and additional time is justified because of an  
89 exceptional circumstance.

90            (c) Reasonable periods of delay necessary to accomplish  
91 notice of the hearing to the child's parent or legal custodian;  
92 however, the petitioner shall continue regular efforts to  
93 provide notice to the parents during the periods of delay.

94            (4)~~(3)~~ Notwithstanding subsection (3) ~~(2)~~, in order to  
95 expedite permanency for a child, the total time allowed for  
96 continuances or extensions of time, including continuances or  
97 extensions by the court on its own motion, may not exceed 60



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days within any 12-month period for proceedings conducted under this chapter.

(a) A continuance or extension of time may be granted only for extraordinary circumstances in which it is necessary to preserve the constitutional rights of a party or if substantial evidence exists to demonstrate that without granting a continuance or extension of time the child's best interests will be harmed.

(b) The court may deny a request for extension of time to achieve compliance with a case plan task if the parent failed to notify the parties and the court within a reasonable time of discovering the barrier to completion of the task.

(c) An order entered under this section shall specify the new date for the continued hearing or deadline.

(5) ~~(4)~~ Notwithstanding subsection (3) ~~(2)~~, a continuance or an extension of time is limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child.

Section 3. Subsections (2) and (5) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter and the names of instructional personnel as defined in s. 1012.01(2), school administrators as defined in s. 1012.01(3)(c), and educational support employees as described in s. 1012.01(6)(a) who have provided information during a protective investigation which shall be released only as provided in subsection (5), shall be



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granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;
5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;
6. Employment screening for caregivers in residential group homes; or
7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing



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a child in civil or criminal proceedings. This access must ~~shall~~ be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access must ~~shall~~ be made available no later than 60 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, must ~~shall~~ be limited to information involving the protective investigation only and may ~~shall~~ not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access must ~~shall~~ be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or



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exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and may ~~shall~~ not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of an ~~a Florida~~ advocacy council in this state investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).



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(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(o) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect may ~~shall~~ not be released. Any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

(r) Staff of a children's advocacy center that is established and operated under s. 39.3035.

(s) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health



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professional licensed under chapter 491 engaged in the care or treatment of the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home described in s. 39.523, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(5) (a) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department must ~~shall~~ mail such a notice to the reporter within 10 days after completing the child protective investigation.





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(b) The names of instructional personnel as defined in s. 1012.01(2), school administrators as defined in s. 1012.01(3)(c), and educational support employees as described in s. 1012.01(6)(a) who have provided information during a protective investigation may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney without the written consent of such personnel.

Section 4. Paragraph (f) of subsection (14) and subsections (15) and (18) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(14) The time limitations in this section do not include:

(f) Continuances or extensions of time may not total more than 60 days for all parties, and the court on its own motion, within any 12-month period during proceedings under this chapter. A continuance or extension beyond the 60 days may be granted only for extraordinary circumstances necessary to preserve the constitutional rights of a party or when substantial evidence demonstrates that the child's best interests will be affirmatively harmed without the granting of a continuance or extension of time. When a continuance or extension is granted, the order shall specify the new date for the continued hearing or deadline.

(15) The department, at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking voluntary services, any referral information necessary for participation in such identified services to allow the



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parents to begin the services immediately. The parents' or legal custodians' participation in the services shall not be considered an admission or other acknowledgment of the allegations in the shelter petition.

(18) The court shall advise the parents in plain language what is expected of them to achieve reunification with their child, including that:

(a) Parents must take action to comply with the case plan so reunification with the child may occur within the shortest period of time possible, but not more than 1 year after removal or adjudication of the child.

(b) Parents must stay in contact with their attorney and their caseworker.

(c) Parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers.

(d) If the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent.

Section 5. Paragraph (c) of subsection (7) of section 39.507, Florida Statutes, is amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

(7)

(c) If a court adjudicates a child dependent and the child is in out-of-home care, the court shall inquire of the parent or parents whether the parents have relatives who might be considered as a placement for the child. The parent or parents shall provide the court and all parties with identification and location information for such relatives. The court shall advise



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the parents in plain language that:<sup>r</sup>

1. Parents must take action to comply with the case plan so reunification with the child may occur within the shortest period of time possible, but not more than 1 year after removal or adjudication of the child.

2. Parents must stay in contact with their attorney and their caseworker.

3. Parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers.

4. If the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent. ~~The parent or parents shall provide to the court and all parties identification and location information of the relatives.~~

Section 6. Paragraph (a) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(a) A written case plan and a family functioning assessment prepared by an authorized agent of the department must be approved by the court. The department must file the case plan



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and the family functioning assessment with the court, serve copies ~~a copy of the case plan~~ on the parents of the child, and provide copies ~~a copy of the case plan~~ to the representative of the guardian ad litem program, if the program has been appointed, and copies ~~a copy~~ to all other parties:

1. Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care. All such case plans must be approved by the court.

2. Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted pursuant to this paragraph, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur within 30 days after the disposition hearing to review and approve the case plan.

Section 7. Subsection (1) of section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(1) At any time before a child achieves the permanency placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or



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by any other interested person, upon the filing of a motion  
~~petition~~ alleging a need for a change in the conditions of  
protective supervision or the placement. If the parents or other  
legal custodians deny the need for a change, the court shall  
hear all parties in person or by counsel, or both. Upon the  
admission of a need for a change or after such hearing, the  
court shall enter an order changing the placement, modifying the  
conditions of protective supervision, or continuing the  
conditions of protective supervision as ordered. The standard  
for changing custody of the child shall be the best interest of  
the child. When applying this standard, the court shall consider  
the continuity of the child's placement in the same out-of-home  
residence as a factor when determining the best interests of the  
child. If the child is not placed in foster care, then the new  
placement for the child must meet the home study criteria and  
court approval pursuant to this chapter.

Section 8. Present subsections (4) through (8) of section  
39.6011, Florida Statutes, are redesignated as subsections (5)  
through (9), respectively, and paragraph (e) of subsection (2),  
subsection (3), and present subsection (6) of that section are  
amended, to read:

39.6011 Case plan development.—

(2) The case plan must be written simply and clearly in  
English and, if English is not the principal language of the  
child's parent, to the extent possible in the parent's principal  
language. Each case plan must contain:

(e) A written notice to the parent that it is the parents'  
responsibility to take action to comply with the case plan so  
reunification with the child may occur within the shortest



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period of time possible, but not more than 1 year after removal or adjudication of the child; the parent must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers; failure of the parent to substantially comply with the case plan may result in the termination of parental rights; ~~it~~ and ~~that~~ a material breach of the case plan by the parent's action or inaction may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.

(3) The case plan must be signed by all parties, except that the signature of a child may be waived if the child is not of an age or capacity to participate in the case-planning process. Signing the case plan constitutes an acknowledgment that the case plan has been developed by the parties and that they are in agreement as to the terms and conditions contained in the case plan. The refusal of a parent to sign the case plan does not prevent the court from accepting the case plan if the case plan is otherwise acceptable to the court. Signing the case plan does not constitute an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights.

(4) Before signing the case plan, the department shall explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child. The department shall ensure that the parent has contact information for all entities necessary to complete the tasks in the plan. The department shall explain the strategies included in the plan that the parent can use to overcome barriers to case plan compliance and that if a barrier is discovered and the parties



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are not actively working to overcome such barrier, the parent must notify the parties and the court within a reasonable time after discovering such barrier.

(7)~~(6)~~ After the case plan has been developed, the department shall adhere to the following procedural requirements:

(a) If the parent's substantial compliance with the case plan requires the department to provide services to the parents or the child and the parents agree to begin compliance with the case plan before the case plan's acceptance by the court, the department shall make the appropriate referrals for services that will allow the parents to begin the agreed-upon tasks and services immediately.

(b) All other referrals for services shall be completed as soon as possible, but not more than 7 days after the date of the case plan approval, unless the case plan specifies that a task may not be undertaken until another specified task has been completed.

(c)~~(b)~~ After the case plan has been agreed upon and signed by the parties, a copy of the plan must be given immediately to the parties, including the child if appropriate, and to other persons as directed by the court.

1. A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

2. In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and shall be



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submitted to the court before the disposition hearing for the court to review and approve.

3. After jurisdiction attaches, all case plans must be filed with the court, and a copy provided to all the parties whose whereabouts are known, not less than 3 business days before the disposition hearing. The department shall file with the court, and provide copies to the parties, all case plans prepared before jurisdiction of the court attached.

Section 9. Paragraph (b) of subsection (1) of section 39.6012, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(b) The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:

1. The type of services or treatment.

2. The date the department will provide each service or referral for the service if the service is being provided by the department or its agent.

3. The date by which the parent must complete each task.

4. The frequency of services or treatment provided. The frequency of the delivery of services or treatment provided shall be determined by the professionals providing the services or treatment on a case-by-case basis and adjusted according to their best professional judgment.

5. The location of the delivery of the services.





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6. The staff of the department or service provider accountable for the services or treatment.

7. A description of the measurable objectives, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

8. Strategies to overcome barriers to case plan compliance, including, but not limited to, the provision of contact information, information on acceptable alternative services or providers, and an explanation that the parent must notify the parties within a reasonable time of discovering a barrier that the parties are not actively working to overcome.

Section 10. Subsection (7) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

(7) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.6011(7)(c) ~~s. 39.6011(6)(b)~~.

Section 11. Present subsections (7) through (10) of section 39.621, Florida Statutes, are redesignated as subsections (8) through (11), respectively, subsection (5) and present subsections (9), (10), and (11) are amended, and a new subsection (7) is added to that section, to read:

39.621 Permanency determination by the court.—

(5) At the permanency hearing, the court shall determine:



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(a) Whether the current permanency goal for the child is appropriate or should be changed.~~+~~

(b) When the child will achieve one of the permanency goals.~~+~~and

(c) Whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

(7) If the court determines that the child's goal is appropriate but the child will be in out-of-home care for more than 12 months before achieving permanency, in those cases where the goal is reunification or adoption, the court shall hold permanency status hearings for the child every 60 days until the child reaches permanency or the court makes a determination that it is in the child's best interest to change the permanency goal.

(10)(9) The case plan must list the tasks necessary to finalize the permanency placement and shall be updated at the permanency hearing unless the child will achieve permanency within 60 days after the hearing ~~if necessary~~. If a concurrent case plan is in place, the court may choose between the permanency goal options presented and shall approve the goal that is in the child's best interest.

(11)(10) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(a) If, after a child has achieved the permanency placement approved at the permanency hearing, a parent who has not had his or her parental rights terminated makes a motion for



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reunification or increased contact with the child, the court shall hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order.

(b) At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.

(c) ~~(11)~~ The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

1. ~~(a)~~ The compliance or noncompliance of the parent with the case plan;

2. ~~(b)~~ The circumstances which caused the child's dependency and whether those circumstances have been resolved;

3. ~~(c)~~ The stability and longevity of the child's placement;

4. ~~(d)~~ The preferences of the child, if the child is of sufficient age and understanding to express a preference;

5. ~~(e)~~ The recommendation of the current custodian; and

6. ~~(f)~~ The recommendation of the guardian ad litem, if one has been appointed.

Section 12. Paragraph (d) of subsection (2) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.—

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(d) *Orders.*—



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1. Based upon the criteria set forth in paragraph (c) and the recommended order of the citizen review panel, if any, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as prescribed in s. 39.6013. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

2. The court shall return the child to the custody of the parents at any time it determines that they have substantially complied with the case plan, if the court is satisfied that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

3. If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents.

4. If, at any judicial review, the court finds that the



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parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court may order the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired.

5. Within 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as identified in the case plan. At the hearing the court shall make written findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion within 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the department must file with the court, and serve on all parties, a motion to amend the case plan to reflect the concurrent goal as the child's primary permanency goal, document the efforts the department is taking to complete the concurrent goal, and identify any additional services needed to reach the permanency goal by a date certain. The court may allow the



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parties to continue to pursue a secondary goal if the court determines that is in the best interest of the child ~~case plan must document the efforts the department is taking to complete the concurrent goal.~~

6. The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and the order may require any person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 13. Paragraph (e) of subsection (1) of section 39.806, Florida Statutes, is amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable



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efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; or

2. The parent or parents have materially breached the case plan by their action or inaction. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires.

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(2) unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

Section 14. Subsection (5) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(5) If the court terminates parental rights, the court shall enter a written order of disposition within 30 days after conclusion of the hearing briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental



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consent or after notice served as prescribed in this part,  
permanently deprives the parents of any right to the child.  
Section 15. This act shall take effect July 1, 2018.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to child welfare; amending s. 39.001,  
F.S.; providing an additional purpose of ch. 39, F.S.;  
providing for the name of a child's guardian ad litem  
or attorney ad litem to be entered on court orders in  
dependency proceedings; amending s. 39.0136, F.S.;  
requiring cooperation between certain parties and the  
court to achieve permanency for a child in a timely  
manner; requiring certain court orders to specify  
certain deadlines; amending s. 39.202, F.S.;  
prohibiting the Department of Children and Families  
from releasing the names of certain persons who have  
provided information during a protective investigation  
except under certain circumstances; amending s.  
39.402, F.S.; providing that time limitations  
governing placement of a child in a shelter do not  
include continuances requested by the court; providing  
limitations on continuances; providing requirements  
for parents to achieve reunification with the child;  
amending s. 39.507, F.S.; requiring the court to  
advise the parents during an adjudicatory hearing of





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certain actions that are required to achieve reunification; amending s. 39.521, F.S.; requiring the department to provide copies of the family functioning assessment to certain persons; amending s. 39.522, F.S.; providing conditions for the court to consider the continuity of the child's placement in the same out-of-home residence before the permanency placement is approved in a postdisposition proceeding to modify custody; amending s. 39.6011, F.S.; requiring a case plan for a child receiving services from the department to include a protocol for parents to achieve reunification with the child; providing that certain action or inaction by a parent may result in termination of parental rights; requiring the department to provide certain information to a parent before signing a case plan; providing a timeframe for referral for services; amending s. 39.6012, F.S.; requiring a case plan to contain certain information; amending s. 39.6013, F.S.; conforming a cross-reference; amending s. 39.621, F.S.; requiring the court to hold permanency hearings within specified timeframes until permanency is determined; amending s. 39.701, F.S.; requiring the department to file a motion to amend a case plan when concurrent planning is used, under certain circumstances; amending s. 39.806, F.S.; specifying that a parent or parents may materially breach a case plan by action or inaction; amending s. 39.811, F.S.; requiring the court to enter a written order of disposition of the child following



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765        termination of parental rights within a specified  
766        timeframe; providing an effective date.

By Senator Montford

3-01078A-18

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A bill to be entitled

An act relating to child abuse, abandonment, and neglect; amending s. 39.202, F.S.; prohibiting the Department of Children and Families from releasing the names of certain persons who have provided information during a protective investigation except under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) and (5) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter and the names of instructional personnel as defined in s. 1012.01(2), school administrators as defined in s. 1012.01(3)(c), and educational support employees as described in s. 1012.01(6)(a) who have provided information during a protective investigation which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for caregivers in residential group homes; or

7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access must ~~shall~~ be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access must ~~shall~~ be made available no later than 60 days after the

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, must ~~shall~~ be limited to information involving the protective investigation only and may ~~shall~~ not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access must ~~shall~~ be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

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20181650\_\_

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and may ~~shall~~ not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of an ~~a Florida~~ advocacy council in this state investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(o) Any person in the event of the death of a child

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determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect ~~may shall~~ not be released. Any information otherwise made confidential or exempt by law ~~may shall~~ not be released pursuant to this paragraph.

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

(r) Staff of a children's advocacy center that is established and operated under s. 39.3035.

(s) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home described in s. 39.523, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive

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parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(5) (a) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department must ~~shall~~ mail such a notice to the reporter within 10 days after completing the child protective investigation.

(b) The names of instructional personnel as defined in s. 1012.01(2), school administrators as defined in s. 1012.01(3)(c), and educational support employees as described in s. 1012.01(6)(a) who have provided information during a protective investigation may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney

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175 without the written consent of such personnel.

176 Section 2. This act shall take effect July 1, 2018.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1650  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, January 29, 2018  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 401 Senate Office Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1788

INTRODUCER: Senator Passidomo

SUBJECT: Agency for Persons With Disabilities

DATE: January 30, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	<b>Fav/CS</b>
2.			AHS	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1788 revises requirements for unlicensed staff that administer or assist with the administration of prescription medications to persons with developmental disabilities.

The bill expands the minimum number of hours of an initial training course that unlicensed staff must complete from no less than 4 hours to no less than 8 hours. The bill also implements new competency assessment and validation requirements based on the routes of medication administered, and requires all direct service providers to complete a 2-hour annual update course in medication administration and error prevention.

The bill is part of the Agency for Persons with Disabilities' (APD) legislative package, has an effective date of July 1, 2018, and will likely have a fiscal impact.

**II. Present Situation:**

**Direct Service Providers**

Clients receiving services from APD in home and community-based settings often receive care from direct service providers.<sup>1</sup> A direct service provider is defined in statute as a person 18 years

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<sup>1</sup> Agency for Persons with Disabilities Agency Analysis, Agency Bill Analysis for Senate Bill 1788, *available at* <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=22337&yr=2018> (last visited January 29, 2018).



of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.<sup>2</sup>

### ***Administration of Medication***

Direct service providers provide supervision of a client's self-administration of medication or direct administration of the medication to the client.<sup>3</sup> Section 393.506, F.S., provides that a direct service provider who is not currently licensed to administer medication may supervise the self-administration of medication or may administer several types of prescription medications to clients, including:

- Oral,
- Transdermal,
- Ophthalmic,
- Otic,
- Rectal,
- Inhaled,
- Enteral, or
- Topical.

In order to supervise the self-administration of medication or to administer medications, a direct service provider must satisfactorily complete a training course of not less than four hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner.<sup>4</sup> Currently, competency must be assessed and validated at least annually by a registered nurse licensed pursuant to ch. 464, F.S., or a physician licensed pursuant to ch. 458 or ch. 459, F.S., in an onsite setting and must include the registered nurse or physician personally observing the direct service provider satisfactorily supervising the self-administration of medication by a client, and administering medication to a client.<sup>5</sup>

The client or the client's guardian or legal representative must give his or her informed consent to self-administering medication under the supervision of an unlicensed direct service provider or to receiving medication administered by an unlicensed direct service provider.<sup>6</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 393.506, F.S., to require that direct service providers must complete a training course of no less than 8 hours, an increase from the previous requirement of at least 4 hours.

The bill also requires that all direct service providers annually complete a two-hour course in medication administration provided by APD or an agency designee. The bill removes the annual

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<sup>2</sup> S. 393.063, F.S.

<sup>3</sup> *Supra* at Note 1.

<sup>4</sup> S 393.506(2), F.S.

<sup>5</sup> See ss. 393.506(2) and (4), F.S.

<sup>6</sup> S 393.506(3), F.S.

revalidation requirement for ophthalmic, rectal, or inhaled routes of medication administration while maintaining that initial assessment and validation require onsite administration of medication on an actual client. For otic, transdermal, or topical medications, the bill removes the annual onsite competency revalidation requirement and provides that competency may be validated by simulation during a training course required under s. 393.506(2), F.S.

**Section 2** provides an effective date of July 1, 2018.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Providers will no longer have to pay for nurses or doctors to come to their facility to validate direct service providers on otic, topical, and transdermal routes, as these would be done by simulation at the time of the required initial coursework. Providers would only have to pay once for initial validation at their facility for ophthalmic, rectal, and inhaled routes. The only routes which will continue to require annual validation are oral and enteral.

Providers will also be required to pay for the increased training hours for direct service providers. The impact of these changes is indeterminate.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 393.506.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**X. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on January 29, 2018:**

- Removes language requiring that new comprehensive transitional education programs (CTEPs) may not be licensed in Florida after July 1, 2018, and existing licenses may not be renewed after December 31, 2020.
- Expands the requirement for direct service providers to complete an annual 2-hour training course on medication administration and error prevention to apply to all unlicensed staff administering or supervising self-administration of medication, not strictly those who administer oral or enteral medications.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
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The Committee on Children, Families, and Elder Affairs  
(Passidomo) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (2) and (4) of section 393.506,  
Florida Statutes, are amended, and subsections (1), (3), and (5)  
of that section are republished, to read:

393.506 Administration of medication. —

(1) A direct service provider who is not currently licensed  
to administer medication may supervise the self-administration



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of medication or may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a client as provided in this section.

(2) In order to supervise the self-administration of medication or to administer medications as provided in subsection (1), a direct service provider must satisfactorily complete a training course of not less than 8 4 hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner. In addition, a direct service provider must annually and satisfactorily complete a 2-hour course in medication administration and error prevention provided by the agency or its designee.

(a) Competency must be assessed and validated at least annually if oral or enteral medication administration is performed in the an onsite setting and must include personally observing the direct service provider satisfactorily:

1. ~~(a)~~ Supervising the oral or enteral self-administration of medication by a client; and

2. ~~(b)~~ Orally or enterally administering medication to a client.

(b) Competency must be assessed and validated during the initial medication administration training course if otic, transdermal, or topical medication administration is performed in the onsite setting. The competency assessment must include personally observing the direct service provider satisfactorily simulating otic, transdermal, or topical medication administration.



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(c) Competency must be assessed and validated and need not be revalidated if ophthalmic, rectal, or inhaled medication administration is performed in the onsite setting. The competency assessment must include the performance of ophthalmic, rectal, or inhaled medication administration on an actual client in the onsite setting.

(3) A direct service provider may supervise the self-administration of medication by a client or may administer medication to a client only if the client, or the client's guardian or legal representative, has given his or her informed consent to self-administering medication under the supervision of an unlicensed direct service provider or to receiving medication administered by an unlicensed direct service provider. Such informed consent must be based on a description of the medication routes and procedures that the direct service provider is authorized to supervise or administer. Only a provider who has received appropriate training and has been validated as competent may supervise the self-administration of medication by a client or may administer medication to a client.

(4) The determination of competency and annual validation described ~~required~~ in this section shall be conducted by a registered nurse licensed pursuant to chapter 464 or a physician licensed pursuant to chapter 458 or chapter 459.

(5) The agency shall establish by rule standards and procedures that a direct service provider must follow when supervising the self-administration of medication by a client and when administering medication to a client. Such rules must, at a minimum, address requirements for labeling medication, documentation and recordkeeping, the storage and disposal of



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medication, instructions concerning the safe administration of medication or supervision of self-administered medication, informed-consent requirements and records, and the training curriculum and validation procedures.

Section 2. This act shall take effect July 1, 2018.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to medication administration training;  
amending s. 393.506, F.S.; revising competency  
assessment and validation requirements for direct  
service providers who administer or supervise the  
self-administration of medication;; providing an  
effective date.

By Senator Passidomo

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A bill to be entitled

An act relating to the Agency for Persons with Disabilities; amending s. 393.18, F.S.; prohibiting the agency from issuing a license to a new comprehensive transitional education program after a specified date; prohibiting the agency from renewing the license of an existing comprehensive transitional education program after a specified date; amending s. 393.506, F.S.; revising competency assessment and validation requirements for direct service providers who administer or supervise the self-administration of medication; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 393.18, Florida Statutes, is amended to read:

393.18 Comprehensive transitional education program.—A comprehensive transitional education program serves individuals who have developmental disabilities, severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. Services provided by the program must be temporary in nature and delivered in a manner designed to achieve the primary goal of incorporating the principles of self-determination and person-centered planning to transition individuals to the most appropriate, least restrictive community living option of their choice which is not operated as a comprehensive transitional education program. The supervisor of

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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the clinical director of the program licensee must hold a doctorate degree with a primary focus in behavior analysis from an accredited university, be a certified behavior analyst pursuant to s. 393.17, and have at least 1 year of experience in providing behavior analysis services for individuals in developmental disabilities. The staff must include behavior analysts and teachers, as appropriate, who must be available to provide services in each component center or unit of the program. A behavior analyst must be certified pursuant to s. 393.17.

(2) Components of a comprehensive transitional education program are subject to the license issued under s. 393.067 to a comprehensive transitional education program and may be located on a single site or multiple sites as long as such components are located within the same agency region.

After July 1, 2018, the agency may not issue a license to a new comprehensive transitional education program. After December 31, 2020, the agency may not renew the license of any existing comprehensive transitional education program.

Section 2. Subsections (2) and (4) of section 393.506, Florida Statutes, are amended, and subsections (1), (3), and (5) of that section are republished, to read:

393.506 Administration of medication.—

(1) A direct service provider who is not currently licensed to administer medication may supervise the self-administration of medication or may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a client as provided in this section.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



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(2) In order to supervise the self-administration of medication or to administer medications as provided in subsection (1), a direct service provider must satisfactorily complete a training course of not less than ~~8~~ 4 hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner.

(a) Competency must be assessed and validated at least annually if oral or enteral medication administration is performed in the an onsite setting and must include personally observing the direct service provider satisfactorily:

1. ~~(a)~~ Supervising the oral or enteral self-administration of medication by a client; and

2. ~~(b)~~ Orally or enterally administering medication to a client.

As a prerequisite to revalidation, a direct service provider must annually and satisfactorily complete a 2-hour course in medication administration and error prevention provided by the agency or its designee.

(b) Competency must be assessed and validated during the initial medication administration training course if otic, transdermal, or topical medication administration is performed in the onsite setting. The competency assessment must include personally observing the direct service provider satisfactorily simulating otic, transdermal, or topical medication administration.

(c) Competency must be assessed and validated and need not be revalidated if ophthalmic, rectal, or inhaled medication

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administration is performed in the onsite setting. The competency assessment must include the performance of ophthalmic, rectal, or inhaled medication administration on an actual client in the onsite setting.

(3) A direct service provider may supervise the self-administration of medication by a client or may administer medication to a client only if the client, or the client's guardian or legal representative, has given his or her informed consent to self-administering medication under the supervision of an unlicensed direct service provider or to receiving medication administered by an unlicensed direct service provider. Such informed consent must be based on a description of the medication routes and procedures that the direct service provider is authorized to supervise or administer. Only a provider who has received appropriate training and has been validated as competent may supervise the self-administration of medication by a client or may administer medication to a client.

(4) The determination of competency and annual validation ~~described~~ required in this section shall be conducted by a registered nurse licensed pursuant to chapter 464 or a physician licensed pursuant to chapter 458 or chapter 459.

(5) The agency shall establish by rule standards and procedures that a direct service provider must follow when supervising the self-administration of medication by a client and when administering medication to a client. Such rules must, at a minimum, address requirements for labeling medication, documentation and recordkeeping, the storage and disposal of medication, instructions concerning the safe administration of medication or supervision of self-administered medication,

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117 informed-consent requirements and records, and the training  
118 curriculum and validation procedures.

119 Section 3. This act shall take effect July 1, 2018.

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1788  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, January 29, 2018  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 401 Senate Office Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
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TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1790

INTRODUCER: Senator Powell

SUBJECT: Baker Act

DATE: January 30, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	<b>Fav/CS</b>
2.			AHS	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1790 directs the Department of Children and Families (DCF) to create a work group to evaluate methods to improve the operational effectiveness of the Florida Mental Health Act (The Baker Act). The bill identifies the members of the workgroup and provides that a report be provided to the Secretary of DCF, the Secretary of the Agency for Health Care Administration, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2018.

The bill shall take effect upon becoming law and could have an insignificant fiscal impact.

**II. Present Situation:**

**Baker Act**

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address the mental health needs of individuals in the state. The Baker Act allows for voluntary and, under certain circumstances, involuntary, examinations of individuals suspected of having a mental illness and presenting a threat of harm to themselves or others. The Baker Act also establishes procedures for courts, law enforcement, and certain health care practitioners to initiate such examinations and then act in response to the findings.

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.<sup>1</sup> An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:<sup>2</sup>

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

### ***Involuntary Admissions***

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.<sup>3</sup>

Within the 72-hour examination period, or if the 72 hours end on a weekend or holiday, no later than the next business day, one of the following must occur:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to placement as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.<sup>4</sup>

Receiving facilities must give prompt notice<sup>5</sup> of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,<sup>6</sup> guardian advocate,<sup>7</sup> health care surrogate or proxy, attorney, and representative.<sup>8</sup> If the patient is a minor, the receiving facility must give prompt notice to the minor's parent, guardian, caregiver, or guardian advocate. Notice

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<sup>1</sup> SS. 394.4625 and 394.463, F.S.

<sup>2</sup> S. 394.463(1), F.S.

<sup>3</sup> S. 394.455(39), F.S. This term does not include a county jail.

<sup>4</sup> S. 394.463(2)(g), F.S.

<sup>5</sup> Notice may be provided in person or by telephone; however, in the case of a minor, notice may also be provided by other electronic means. S. 394.455(2), F.S.

<sup>6</sup> "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated. Section 394.455(17), F.S.

<sup>7</sup> "Guardian advocate" means a person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment. Section 394.455(18), F.S.

<sup>8</sup> S. 394.4599(2)(b), F.S.

for an adult may be provided within 24 hours of arrival; however, notice for a minor must be provided immediately after the minor's arrival at the facility. The facility may delay the notification for a minor for up to 24 hours if it has submitted a report to the central abuse hotline. The receiving facility must attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until it receives confirmation that the notice has been received. Attempts must be repeated at least once every hour during the first 12 hours after the minor's arrival and then once every 24 hours thereafter until confirmation is received, the minor is released, or a petition for involuntary services is filed with the court.<sup>9</sup>

### ***Voluntary Admissions and Transfer to Voluntary Status***

Baker Act receiving facilities also admit any person 18 years of age or older making application by express and informed consent for admission or any person age 17 or under for whom such application is made by his or her guardian.<sup>10</sup> If found to show evidence of mental illness, to be competent to provide express and informed consent, and to be suitable for treatment, such person 18 years of age or older may be admitted to the facility.<sup>11</sup> Any person age 17 or under may be admitted only after a hearing to verify the voluntariness of their consent.<sup>12</sup> However, In 1997 a joint legislative committee determined that the "voluntariness hearing" described in the Baker Act Florida Administrative Rules at that time didn't conform to a "hearing" as intended in this section of the law because each other time that term was used in the law, it applied to a judicial hearing.<sup>13</sup> As a result, all reference to "voluntary hearings" were deleted from the rules. DCF stated that only a judicial hearing would suffice to meet this legal requirement and that it had to be conducted prior to the minor's voluntary admission, despite the consent of the parents or assent of the child to the admission.<sup>14</sup> Most patients age 17 or under are admitted under involuntary status and either discharged or later transferred to voluntary status, and it is unlikely that pre-admission court hearings for voluntary admission of minors are being conducted anywhere in the state.<sup>15</sup>

A patient admitted on an involuntary basis who applies to be transferred to voluntary status must be transferred to voluntary status immediately, unless the patient has been charged with a crime, or has been involuntarily placed for treatment by a court pursuant to s. 394.467, F.S., and continues to meet the criteria for involuntary placement.<sup>16</sup>

## **III. Effect of Proposed Changes:**

**Section 1** directs DCF to convene a workgroup to evaluate methods to improve the operational effectiveness of Part I of ch. 394, F.S., the Florida Mental Health Act, and recommend changes to existing laws, rules, and agency policies needed to implement the workgroup recommendations.

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<sup>9</sup> S. 394.4599(c), F.S.

<sup>10</sup> S. 394.4625

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Department of Children and Families; Frequently Asked Questions, <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/Minors.pdf> (last visited January 25, 2018).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Supra* at note 10.

This section also provides that the workgroup consists of 20 members from various stakeholder groups. Members of the workgroup shall be appointed by June 1, 2018, and the first meeting of the workgroup shall take place before July 1, 2018. The draft of its recommendations shall be reviewed by the group by September 1, 2018. A final report shall be provided to the Secretary of the Department of Children and Families, the Secretary of the Agency for Health Care Administration, the President of the Senate and the Speaker of the House of Representatives by November 1, 2018. The report must include the workgroup's findings and recommended statutory and administrative rule changes.

**Section 2** provides that the bill shall take effect upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact

None.

C. Government Sector Impact:

The bill requires DCF to create the workgroup and the meetings of the workgroup to take place in Tallahassee; however, the bill does not address the issue of reimbursement of costs for members to travel in Tallahassee. If DCF is responsible for the reimbursements there will be an insignificant fiscal impact on the department.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates an undesignated section of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on January 29, 2018:**

- Removes Section 2, requiring voluntariness consent hearings for minor patients voluntarily admitted to Baker Act receiving facilities.
- Removes Section 3, requiring voluntariness consent hearings for minor patients who transfer from involuntary to voluntary status.

**B. Amendments:**

None.





747094

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Powell)  
recommended the following:

**Senate Amendment**

Delete lines 145 - 146  
and insert:  
hearing within 5 court working days after receiving a  
petition for voluntary placement for a patient age 17 or under  
to verify that



495488

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Powell)  
recommended the following:

**Senate Amendment**

Delete lines 179 - 180  
and insert:  
court working days after receiving a petition for voluntary  
placement for a patient age 17 or under



851346

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Powell)  
recommended the following:

**Senate Amendment**

Delete lines 145 - 147  
and insert:  
hearing within 5 court working days after receiving a petition  
for voluntary placement for a patient age 17 or under a person  
age 17 or under may be admitted only after a hearing to verify  
that the voluntariness of the consent to admission is voluntary.



225424

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Powell)  
recommended the following:

**Senate Amendment**

Delete lines 179 - 181  
and insert:  
court working days after receiving a petition for voluntary  
placement for a patient age 17 or under ~~a person under 18 years~~  
~~of age may be admitted for integrated facility services only~~  
~~after a hearing~~ to verify that the consent to admission is  
voluntary.



519510

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Torres) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 108 - 181.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 13 - 27

and insert:

date; providing an effective

By Senator Powell

30-00592A-18

20181790\_\_

1 A bill to be entitled  
 2 An act relating to the Baker Act; requiring the  
 3 Department of Children and Families to create a  
 4 workgroup to provide recommendations relating to  
 5 revision of the Baker Act; requiring the workgroup to  
 6 make recommendations on specified topics; providing  
 7 for membership of the workgroup; providing for  
 8 meetings; requiring the workgroup to meet by a  
 9 specified date; requiring the workgroup to review a  
 10 draft of its recommendations by a specified date;  
 11 requiring the workgroup to submit a final report to  
 12 specified entities and the Legislature by a specified  
 13 date; amending s. 394.4625, F.S.; requiring the  
 14 administrator of a receiving facility to file a  
 15 petition for voluntary placement within a specified  
 16 timeframe after a person under age 18 is admitted for  
 17 services or transferred to voluntary status; requiring  
 18 the court to hold a hearing within a specified  
 19 timeframe to verify consent under certain  
 20 circumstances; amending s. 394.499, F.S.; requiring  
 21 the administrator of a children's crisis stabilization  
 22 unit or a juvenile addictions receiving facility to  
 23 file a petition for voluntary placement within a  
 24 specified timeframe after a person under age 18 is  
 25 admitted for services; requiring the court to hold a  
 26 hearing within a specified timeframe to verify consent  
 27 under certain circumstances; providing an effective  
 28 date.  
 29

Page 1 of 7

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

30-00592A-18

20181790\_\_

30 Be It Enacted by the Legislature of the State of Florida:

31  
 32 Section 1. Workgroup to improve operational effectiveness  
 33 of the Baker Act.—The Department of Children and Families shall  
 34 create a workgroup to evaluate methods to improve the  
 35 operational effectiveness of the Baker Act and recommend changes  
 36 to existing laws, rules, and agency policies needed to implement  
 37 the workgroup's recommendations.

38 (1) At a minimum, the workgroup shall evaluate and make  
 39 recommendations on the following:

40 (a) The timeframe for initial assessment of a patient,  
 41 including whether the timeframe should be lengthened.

42 (b) The use of advanced registered nurse practitioners to  
 43 rescind Baker Act commitments.

44 (c) The use of telemedicine for patient evaluation, case  
 45 management, and ongoing care, including recommendations by the  
 46 courts on the use of telemedicine to improve management of  
 47 patient care and to reduce costs of transportation and public  
 48 safety.

49 (d) The 7-day requirement for followup care and its  
 50 applicability to outpatient providers.

51 (e) Other areas deemed by the workgroup where changes would  
 52 improve the operational effectiveness of the Baker Act.

53 (2) The workgroup shall consist of the following  
 54 stakeholders:

55 (a) A representative of the Department of Children and  
 56 Families, who shall serve as chair, appointed by the Secretary  
 57 of Children and Families.

58 (b) Two representatives of public Baker Act receiving

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59 facilities and two representatives of specialty hospitals,  
 60 appointed by the Florida Hospital Association.

61 (c) Two representatives of crisis stabilization units,  
 62 appointed by the Department of Children and Families.

63 (d) A representative of law enforcement agencies, appointed  
 64 by the Florida Sheriffs Association.

65 (e) A member of the judiciary who regularly evaluates Baker  
 66 Act cases, appointed by the Chief Justice of the Supreme Court.

67 (f) A public defender, appointed by the Florida Public  
 68 Defender Association.

69 (g) A state attorney, appointed by the Florida Prosecuting  
 70 Attorneys Association.

71 (h) A physician who provides care within a Baker Act  
 72 receiving facility, appointed by the Florida Medical  
 73 Association.

74 (i) A physician who regularly screens patients who meet  
 75 Baker Act criteria, appointed by the Florida College of  
 76 Emergency Physicians.

77 (j) A representative from a managing entity, appointed by  
 78 the Secretary of Children and Families.

79 (k) A representative of the Agency for Health Care  
 80 Administration, appointed by the Secretary of Health Care  
 81 Administration.

82 (l) Two representatives of the Florida Council for  
 83 Community Mental Health, appointed by the council.

84 (m) An advanced registered nurse practitioner who works in  
 85 a Baker Act receiving facility and who treats patients who meet  
 86 Baker Act criteria, appointed by the Florida Nurses Association.

87 (n) Two advanced registered nurse practitioners who are

30-00592A-18

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88 nationally certified in mental health, one appointed by the  
 89 Florida Association of Nurse Practitioners, and one appointed by  
 90 the Florida Nurse Practitioner Network.

91 (o) A psychologist licensed under chapter 490, Florida  
 92 Statutes, appointed by the Florida Psychological Association.

93 (p) A psychiatrist with experience in the Baker Act,  
 94 appointed by the Florida Psychiatric Society.

95 (3) The workgroup shall meet in Tallahassee and shall  
 96 determine the frequency of its meetings. Individual workgroup  
 97 members are responsible for their travel expenses.

98 (4) Members of the workgroup shall be appointed by June 1,  
 99 2018, and the first meeting of the workgroup must take place  
 100 before July 1, 2018. The workgroup shall review a draft of its  
 101 recommendations before September 1, 2018. By November 1, 2018,  
 102 the workgroup shall provide a final report to the Secretary of  
 103 Children and Families, the Secretary of Health Care  
 104 Administration, the President of the Senate, and the Speaker of  
 105 the House of Representatives. The report must include the  
 106 workgroup's findings and recommended statutory and  
 107 administrative rule changes.

108 Section 2. Paragraph (a) of subsection (1) and subsection  
 109 (4) of section 394.4625, Florida Statutes, are amended to read:  
 110 394.4625 Voluntary admissions.—

111 (1) AUTHORITY TO RECEIVE PATIENTS.—

112 (a) A facility may receive for observation, diagnosis, or  
 113 treatment any person 18 years of age or older making application  
 114 to the facility by express and informed consent for admission or  
 115 any person age 17 or under for whom such application is made by  
 116 his or her guardian. If found to show evidence of mental

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117 illness, to be competent to provide express and informed  
 118 consent, and to be suitable for treatment, such person 18 years  
 119 of age or older may be admitted to the facility.

120 1. Within 24 hours after a person is admitted for  
 121 observation, diagnosis, or treatment or transferred to voluntary  
 122 status pursuant to subsection (4), the administrator of the  
 123 facility shall file with the court in the county where the  
 124 person age 17 or under is located a petition for voluntary  
 125 placement. Such petition shall include all forms and information  
 126 as required by the department, including, but not limited to,  
 127 the application for voluntary admission or application to  
 128 transfer to voluntary status; the express and informed consent  
 129 of the person age 17 or under and his or her guardian to  
 130 admission for treatment; certification that the disclosures  
 131 required under s. 394.459 to obtain such express and informed  
 132 consent were communicated to the person and his or her guardian;  
 133 and pertinent demographic information about the person and his  
 134 or her guardian, including whether a final judgment of  
 135 dissolution of marriage has been entered, whether the guardian  
 136 is authorized to make health care decisions on behalf of the  
 137 person, and certification that a copy of the final judgment or  
 138 other document that establishes the authority of the guardian  
 139 has been or will be provided to the court. Upon filing, the  
 140 clerk of the court shall provide copies to the department, to  
 141 the person age 17 or under, and to his or her guardian. A fee  
 142 may not be charged for the filing of a petition under this  
 143 subparagraph.

144 2. Unless a continuance is granted, a court shall hold a  
 145 hearing within 5 court working days after a person age 17 or

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20181790\_\_

146 under ~~is may be~~ admitted ~~only after a hearing~~ to verify that the  
 147 ~~voluntariness of~~ the consent to admission is voluntary.

148 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient  
 149 who is 18 years of age or older and who applies to be  
 150 transferred to voluntary status, or an involuntary patient who  
 151 is age 17 or under and whose guardian has made application on  
 152 his or her behalf to transfer to voluntary status, shall be  
 153 transferred to voluntary status immediately, unless the patient  
 154 has been charged with a crime, or has been involuntarily placed  
 155 for treatment by a court pursuant to s. 394.467 and continues to  
 156 meet the criteria for involuntary placement. Within 24 hours  
 157 after transfer to voluntary status, the administrator of the  
 158 facility shall file a petition in accordance with subparagraph  
 159 (1)(a)1. A court shall hold a hearing within 5 court working  
 160 days after receiving a petition for voluntary placement for a  
 161 patient age 17 or under to verify that the consent to remain in  
 162 the facility is voluntary. When transfer to voluntary status  
 163 occurs, notice shall be given as provided in s. 394.4599.

164 Section 3. Paragraph (a) of subsection (2) of section  
 165 394.499, Florida Statutes, is amended to read:

166 394.499 Integrated children's crisis stabilization  
 167 unit/juvenile addictions receiving facility services.—

168 (2) Children eligible to receive integrated children's  
 169 crisis stabilization unit/juvenile addictions receiving facility  
 170 services include:

171 (a) A person under 18 years of age for whom voluntary  
 172 application is made by his or her guardian, if such person is  
 173 found to show evidence of mental illness and to be suitable for  
 174 treatment pursuant to s. 394.4625. The administrator of the



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20181790\_\_

175 facility shall file a petition for voluntary placement, pursuant  
176 to s. 394.4625, within 24 hours after a person under 18 years of  
177 age is admitted for integrated facility services. Unless a  
178 continuance is granted, a court shall hold a hearing within 5  
179 court working days after a person under 18 years of age ~~is~~ may  
180 ~~be admitted for integrated facility services only after a~~  
181 ~~hearing~~ to verify that the consent to admission is voluntary.

182 Section 4. This act shall take effect upon becoming a law.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1790  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, January 29, 2018  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 401 Senate Office Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting

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A photograph of the Florida State Capitol building, showing its white columns, dome, and a palm tree in the foreground. The image is partially obscured by a dark blue curved graphic element.

# Florida is Generally Following Statutory Child Support Guidelines; Deviations Are Limited

A Presentation to the Senate Committee on Children,  
Families, and Elder Affairs

Alex Regalado, Chief Legislative Analyst  
January 29, 2018

Consistent with federal requirements for mandatory review, we sought to determine whether statutory child support guidelines were being followed and the extent to which deviations occurred

# Background

- ▶ State law requires the Department of Revenue (DOR) and the courts to determine child support obligations using statutory guidelines (61.30 *F.S.*)
- ▶ Child support guideline schedules are based on two factors
  - Number of children
  - Net parental income
- ▶ The guidelines also consider educational, health care, and child care expenses and parenting time
- ▶ A child support guideline worksheet is used to calculate an obligation amount

# Background

Child support guidelines apply to Title IV-D and private cases (non-Title IV-D) cases

- Title IV-D cases: families who previously or currently receive public assistance or request assistance with child support collections and enforcement
- Private cases: families who use private attorneys or represent themselves and do not receive public assistance or request state assistance
- DOR handles Title IV-D cases administratively and judicially, while private cases are managed through a judicial process

# Background

- ▶ Florida Statutes allow deviations from the guideline amounts for specific reasons
- ▶ A child support payment adjusted by more than 5% above or below the guideline amount is a deviation
- ▶ Deviations are permitted based on 11 statutory factors such as extraordinary medical expenses, special needs, and a child spending less than 20% of overnights with one parent



# Methodology

Our analysis used various approaches because of the quality and type of data available

Population	Population Size	Approach
Private Cases	5,756	Case file review of a random sample (n=365)
Title IV-D Administrative Cases (calculated by DOR data system)	14,990	Population analysis
Title IV-D Judicial Cases (not calculated by DOR data system)	11,138	Case file review of a random sample (n=242)

# Findings

# Statutory Guidelines are Generally Being Followed

- ▶ Private cases: court personnel used worksheets and calculations were generally correct
  - In-depth review of a subsample of private cases found that guideline worksheets were complete and calculated correctly
- ▶ Title IV-D administrative cases: DOR data system applied the guideline schedule and basic calculations appeared to be correct
- ▶ Title IV-D judicial cases: case file review indicates that personnel used worksheets in applying the guidelines

# Deviation Rates Were Less than 10% and Occurred Mostly Below Guideline Amounts

	Title IV-D Administrative Cases (n=14,990)	Title IV-D Judicial Cases (n=206)	Private Cases (n=307)
Deviations	391 (2.6%)	10 (4.9%)	17 (5.5%)
Deviations more than 5% <u>above</u> guideline amount	3	1	8
Deviations more than 5% <u>below</u> guideline amount	388	9	9

# Reasons for Deviations Varied Among Case Types

- ▶ 95% of Title IV-D administrative case deviations were due to
  - Child spending a significant amount of time, but less than 20% of overnights, with one parent
  - One parent refusing to become involved in the child's activities
- ▶ Deviation reasons for Title IV-D judicial and private cases were mostly classified as “any other adjustment that is needed to achieve an equitable result”

# Questions

# Contact Information

**Alex Regalado**

Chief Legislative Analyst

(850) 717-0506

regalado.alex@oppaga.fl.gov

THE FLORIDA LEGISLATURE'S  
OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY

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OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations.

# Review of Florida's Child Support Guidelines 2017

**Stefan C. Norrbin, Ph.D.**

**David A. Macpherson, Ph.D.**

**Thomas S. McCaleb, Ph.D.**

**Onsurang Norrbin, Ph.D.**

**Katie Sherron, Ph.D.**

**Victoria Roberts, Graduate Student in Economics**

January 29, 2018



# Florida's Child Support Guidelines

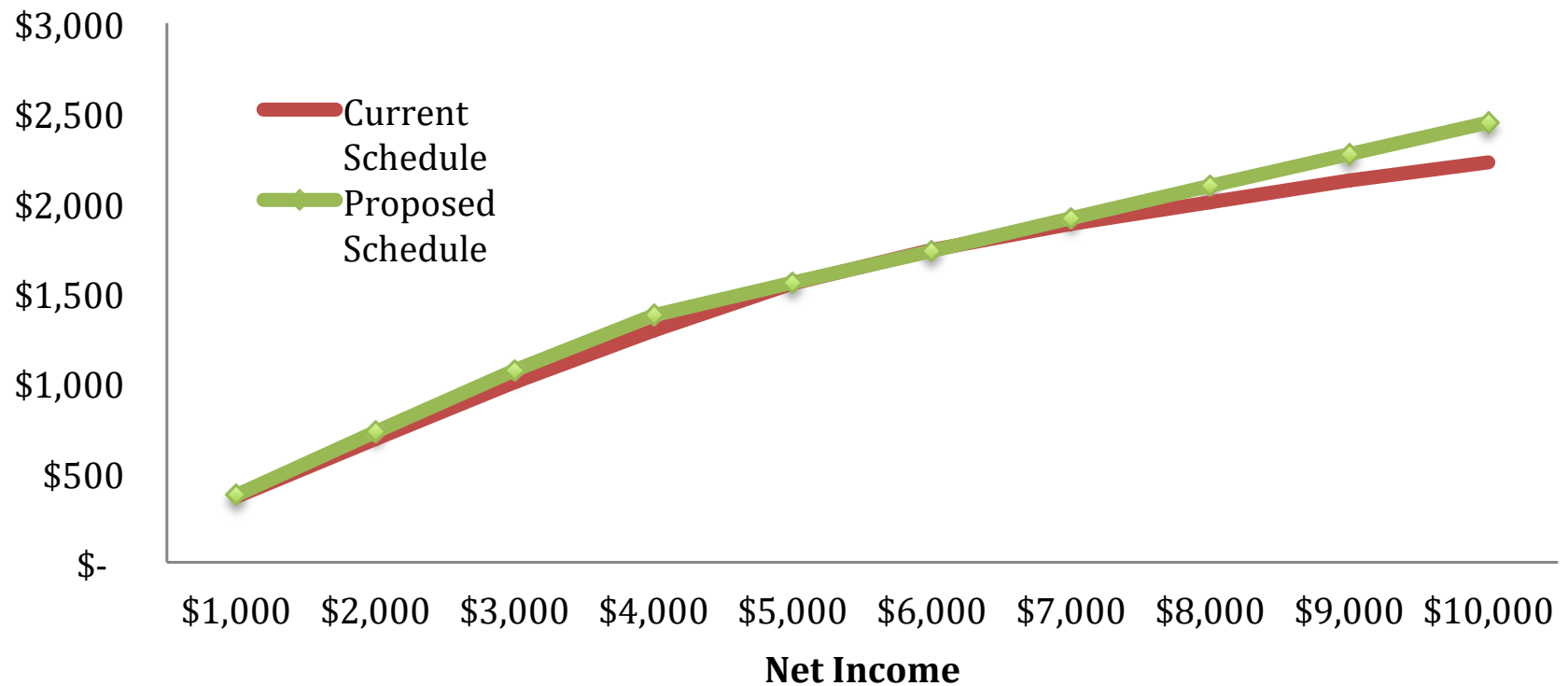
- Florida adopted an **income shares** framework.
- Basic child support obligation based on joint income of both parents.
- Noncustodial parent's share of basic support obligation equals noncustodial parent's share of joint income
- Actual childcare expenses and children's health expenses are added according to the parent's income share

# Florida's Child Support Guidelines

- A worksheet adopted by court rule is used to calculate income and determine each parent's obligation.
- If combined income is below the lowest schedule income amount (currently \$800 a month), the worksheet has an alternative method to determine a parent's obligation.
- This approach is intended “to establish the principle of payment and lay the basis for increased support orders should the parent's income increase” [s. 61.30(6)(a)1., F.S.].

# Current and Updated Schedules

**Figure 4-2**  
**Child Support Obligations for Two Children**



# Current and Updated Schedules

- Although dollar cost of raising children has increased significantly since last update in 1993, so has income
- Child cost **as a share of income** has not changed much

# Florida's Current Low-Income Guidelines Provision is Ineffective

Does not prevent noncustodial parents from being pushed into poverty

- *Combined* parental income is compared to *single-person* poverty guideline, making low-income provision practically useless
- Amount of self-support reserve has not changed since 1992 when poverty guideline was \$567.50 per month, compared with \$1005 per month in 2017
- Applies only to basic obligation, not total obligation including childcare and children's health expenses

# Preparing for the Next Quadrennial Review

Before next quadrennial review, Florida must bring child support guidelines into conformity with revised federal rule

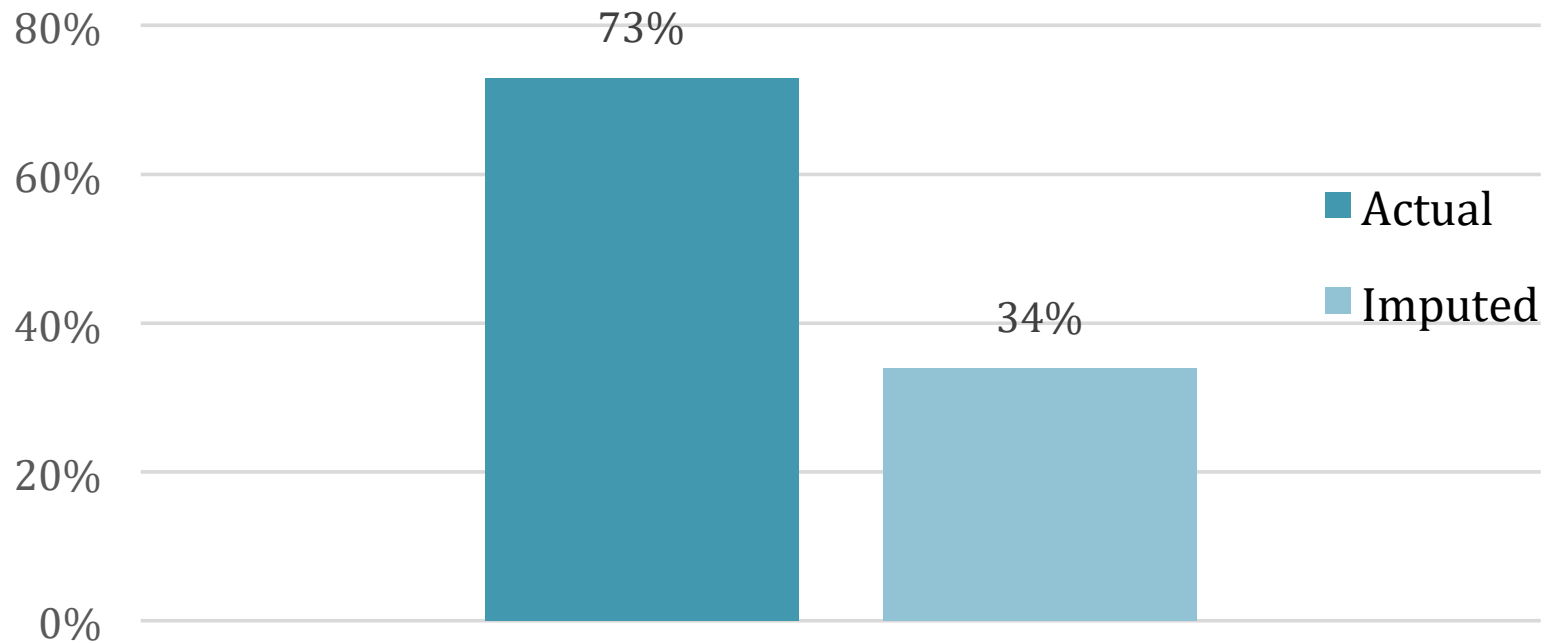
- Requires child support obligations based on labor market variables in addition to the cost of raising children
- Requires child support payment in each case based on individual-specific facts, in turn requiring greater efforts at fact-finding by state child support agency

# Preparing for the Next Quadrennial Review (continuation)

- Strictly limits income imputation and does not permit imputation at a standardized amount as stipulated in Florida guidelines

# Much Lower Compliance for Obligor Parents with Imputed Incomes

**Figure 5-4**  
**Percentage of Current Support Paid by Obligor**  
**for Actual and Imputed Incomes**





# Preparing for the Next Quadrennial Review (continuation)

- Allows public health insurance or health care such as Medicaid to satisfy requirement to provide for children's health care needs

# Recommendations For Current Action

1. Retain existing statutory schedule of child support obligations
2. Modify or replace the current low-income provision to make it effective
3. Design and implement an electronic version of the worksheet and require all child support orders be completed and submitted electronically

# Recommendations For Future Action

1. Provide enhanced case file data for next review, such as data on all judicial cases, information on visitation orders, and complete net income reporting
2. Amend the statutory enumerated bases on which deviations from the guidelines may be justified to include the labor market variables in the revised federal rule

# Recommendations

## For Future Action (continuation)

3. Amend the guidelines to ensure that the number of cases where income is imputed is strictly limited and to provide criteria for imputation
4. Consider development of an income prediction model for use where income information is missing
5. Amend the guidelines to permit public health insurance or Medicaid to satisfy the requirement for providing children's health care

# CourtSmart Tag Report

**Room:** SB 401

**Case No.:**

**Caption:** Senate Committee on Children, Families, and Elder Affairs

**Type:**

**Judge:**

**Started:** 1/29/2018 4:02:10 PM

**Ends:** 1/29/2018 5:14:44 PM **Length:** 01:12:35

4:02:17 PM Meeting Called to order  
4:02:31 PM Quorum Present  
4:04:05 PM Tab 6 SB 1788  
4:04:09 PM Sen Passidomo  
4:05:08 PM AM 342810  
4:05:53 PM AM 352810 adopted  
4:06:17 PM Caleb Hawks, waives in support  
4:06:57 PM Suzanne Sewell, FI Assoc. of Rehab facilities, speaks to inform  
4:08:45 PM Sen Passidomo waives close  
4:08:48 PM Roll Call  
4:08:56 PM SB 1788 recorded favorably  
4:09:16 PM Tab 1 SB 508  
4:09:19 PM Sen Rousson  
4:11:28 PM Questions  
4:11:31 PM Sen Broxson  
4:15:30 PM Discussion  
4:15:47 PM Sen Torres  
4:16:33 PM Scott McCoy, Southern Poverty Law Center, waives in support  
4:16:45 PM Karen Woodall, FI Center for Fiscal and Economic Policy, waives in support  
4:16:56 PM Sen Rousson waives close  
4:17:01 PM Roll Call  
4:17:07 PM SB 508 recorded favorably  
4:17:23 PM Tab 2 Sb 1214  
4:17:28 PM Sen Book  
4:18:57 PM Sen Broxson question  
4:19:42 PM AM 283158  
4:19:46 PM Sen Book  
4:20:13 PM AM 283158 adopted  
4:20:23 PM AM 666614  
4:20:30 PM Sen Book  
4:20:44 PM AM 666614 adopted  
4:20:49 PM AM 659158  
4:20:56 PM Sen Book  
4:21:08 PM AM 659518 adopted  
4:21:10 PM Questions  
4:21:25 PM Andrew Fay, Attorney Gen Office, waives in support  
4:21:29 PM Sen Book waives close  
4:21:31 PM Roll Call  
4:21:41 PM SB 1214 recorded favorably  
4:22:20 PM Tab & SB 1790  
4:22:55 PM AM 851346 and 225425 WD  
4:23:39 PM Sen Powell

**4:24:34 PM** Dan Hendrickson, Big Bend Mental Health Coalition, speaks to inform  
**4:25:59 PM** Alisa Lapolt, National Alliance on Mental Illness, waives in support  
**4:26:30 PM** Maggie Labarta, FI Council for Behavioral Health, speaks in favor  
**4:26:39 PM** Sen Powell closes  
**4:27:07 PM** Roll Call  
**4:27:27 PM** CS SB 1790 recorded favorably  
**4:27:38 PM** Tab 3 SB 1442  
**4:30:11 PM** Sen Broxson question  
**4:32:13 PM** Discussion  
**4:34:23 PM** AM 776396  
**4:35:05 PM** Sen Book  
**4:36:28 PM** AM 776396 adopted  
**4:36:55 PM** Alan Abramowitz, Director, speaks in favor  
**4:38:06 PM** Sara Naf Biehl, waives in support  
**4:38:21 PM** Ashlee Tising, Capital Alliance Group, waives in support  
**4:38:37 PM** Debate  
**4:38:43 PM** Sen Book closes  
**4:39:04 PM** Roll Call  
**4:39:12 PM** CS SB 1442 recorded favorably  
**4:39:37 PM** Tab 5 SB 1650  
**4:39:40 PM** Sen Book  
**4:41:59 PM** AM 868338 adopted  
**4:42:22 PM** Alan Abramowitz, Guardian ad litem, waives in support  
**4:42:46 PM** Victoria Zepp, Florida Coalition for Children, speaks in favor  
**4:44:22 PM** Roll Call  
**4:44:37 PM** CS SB 1650 recorded favorably  
**4:45:00 PM** Tab 4 SB 1520 bill TP'd  
**4:45:50 PM** Leon Biegalski, Executive Director FI Department of Revenue speaks to inform  
**4:54:58 PM** Sen Torres  
**4:56:23 PM** Ann Coppin, Program Director for the Child Support Program, speaks to inform  
**4:57:25 PM** Tab 9 Alex Regalado, OPAGA, Florida Child Support Guidelines Presentation  
**5:02:39 PM** Dr. Tom McCaleb Florida State University Presentation  
**5:14:37 PM** Meeting adjourned

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1/29/18

*Meeting Date*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1790

*Bill Number (if applicable)*

Topic Baker Act Patient Rights

Name Dan Hendrickson

*Amendment Barcode (if applicable)*

Job Title Advocacy Committee volunteer chair

Address 319 E Park Ave

*Street*

Phone 850 570-1967

Tallahassee

FL

32301

*City*

*State*

*Zip*

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Big Bend Mental Health Coalition

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

waive  
AS Amended  
**THE FLORIDA SENATE**

**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

1/22/18

Topic

Baker Act

Name

Alisa LaRit

Job Title

Executive Director

Address

PO Box 961

Street

TLH

City

State

FL

Zip

32302

Phone

850-671-4445

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing

National Alliance on Mental Illness - Florida

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

1/29/18

Topic

Baker Act

Name

Dr. Maggie Labarta

Job Title

CEO Mental Behavioral Health

Address

1165 SW William Rd

Street

Gainesville FL

City

State

Zip

32608

Phone

352-374-5600

X 8220

Email

maggie.labarta@ukhcf.org

Speaking:

☒ For

☒ Against

☐ Information

Waive Speaking:

☐ In Support

☐ Against

(The Chair will read this information into the record.)

Representing

Florida Council for Behavioral Health

Appearing at request of Chair:

☐ Yes ☐ No

Lobbyist registered with Legislature:

☐ Yes ☒ No

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Bill Number (if applicable)

225424

Amendment Barcode (if applicable)

851346

1790

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

SB 1788  
Bill Number (if applicable)

Topic APD - Medication Administration

Name Suzanne Sewell

Job Title President of CED

Address 2475 Apalachee Parkway  
Street

Phone 850-942-3500

Tallahassee FL 3230  
City State Zip

Email ssewella@floridacert.org

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Association of Rehabilitation Facilities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

1/28/18

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

HB 1788

Bill Number (if applicable)

8 352810

Amendment Barcode (if applicable)

Topic

Name CALEB HAWKES

Job Title LAD AGENCY FOR PERSONS W/ DISABILITIES

Address

Street

Phone 850/406-8951

Email CALEB.HAWKES@APDCARES.ORG

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing AGENCY FOR

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/24/18

Meeting Date

Topic Dependancy

Name ALAN ABRAMOWITZ

Job Title Director

Address 600 S. CALHOUN

Street

City

Tallahassee

State

Zip

Phone 850-241-3332

Email ALAN.ABRAMOWITZ@FLA.GOV

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard

This form is part of the public record for this meeting

1650

Bill Number (if applicable)

868338

Amendment Barcode (if applicable)

THE FLORIDA SENATE

APPEARANCE RECORD

1/20/17

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1650

Meeting Date

Bill Number (if applicable)

Topic Child Abuse, Abandonment & Neglect

Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Policy & Research Officer

Address 8411 E College Ave.

Phone 888.241.6389

Street

Jacksonville, FL 32301

City

State

Zip

Email Victoria@1children.org

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Coalition for Children

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18

Meeting Date

1520

Bill Number (if applicable)

Topic

Name

JANET MABEY

Amendment Barcode (if applicable)

Job Title

Address

2866 Bay Harbor Circle

Street

Gulf Breeze

City

FL

State

32563

Zip

Phone

501-2507

Email

MabyJF@CS.com

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

(The Chair will read this information into the record.)

Representing

Myself as a Mother & Grandmother

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/29/18  
Meeting Date

1520  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name JEFF KOTTKAMP

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Street

Tallahassee

FL

City

State

Zip

Email JEFFKOTTKAMP@GMAIL.COM

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Alliance of Boys + Girls Clubs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

SB 1520  
Bill Number (if applicable)

Topic Child Care Licensing of After School Programs

Amendment Barcode (if applicable)

Name Niki Kelly

Job Title Executive Director

Address 1100 Fountain Ave  
Street

Phone 850-769-6703

Panama City FL 32401  
City State Zip

Email nkelly@girlsincofbaycounty.org

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Girls Inc. of Bay County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Bill Number (if applicable)

Amendment Barcode (if applicable)

**Meeting Date**

Topic Boys & Girls Club

Name Jordan Cook

Job Title \_\_\_\_\_

Address 710 East 10th St

Street

Street *T. H. L.* *Feb* *32301*

City

State

Zip

Phone \_\_\_\_\_

Email \_\_\_\_\_

**Speaking:**

For

Against

11

## Information

**Waive Speaking:**

--	--

## In Support

7

**Against**

(The Chair will read this information into the record.)

## Representing

Florida Boys & Girls Club

Appearing at request of Chair:

22

Yes ☒☒ No

Lobbyist registered with Legislature:



Yes

104

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/29/18  
Meeting Date

1442  
Bill Number (if applicable)

776396  
Amendment Barcode (if applicable)

Topic EARLY CHILDHOOD COURT

Name ALAN ABRAMOVITZ

Job Title Director

Address 600 S. CALHOUN  
Street

Phone 850-241-3232

Palm Beach  
City State Zip

Email AA.Abra@fla.gov

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

1442  
Bill Number (if applicable)

Topic Early childhood Court Program

Amendment Barcode (if applicable)

Name Sarah Naf Biehl

Job Title Chief of Legislative Affairs

Address 500 S. Duval St.  
Street

Phone 850-922-5692

Tallahassee FL 32399  
City State Zip

Email na@senate.flcourts.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Steering Committee on Families and Children in the Court

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

1442  
Bill Number (if applicable)

Topic Early Childhood Court

Amendment Barcode (if applicable)

Name Ashlee Tising

Job Title Lobbyist

Address 106 East College Avenue, Ste 604  
Street  
Tallahassee, FL 32301  
City State Zip

Phone (850) 449-2949

Email ARaeTising@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Capitol Alliance Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1/29/2018

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Meeting Date*

*Bill Number (if applicable)*

Topic Update on Child Support Program

*Amendment Barcode (if applicable)*

Name Leon Biegalski

Job Title Executive Director, Florida Department of Revenue

Address 2450 Shumard Oaks Blvd.

Phone (850) 617-8950

*Street*

Tallahassee

FL

32399

*City*

*State*

*Zip*

Email leon.biegalski@floridarevenue.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Department of Revenue

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/2018  
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Child Support Guidelines

Name Thomas (Tom) McCabe

Job Title Emeritus Professor - Economics

Address 287 Bellamy Bldg., FSU  
Street

Phone (850) 933-7653

Tallahassee, FL 32306  
City State Zip

Email tmccaleb@fsu.edu

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida State University

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

Bill Number (if applicable)

Topic Child Support Guidelines

Amendment Barcode (if applicable)

Name ALEX REGALADO

Job Title Chief Legislative Analyst

Address 111 W. Madison St.

Phone 717-0506

Tallahassee FL 32308  
City State Zip

Email

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing OPPGA

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/11)

## THE FLORIDA SENATE

## APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/2018

Meeting Date

*Bill Number (if applicable)*

Topic Child Support Program

Amendment Barcode (if applicable)

Name Ann Coffin

**Job Title** Program Director, Child Support Program

Address 2450 Shumard Oaks Blvd.

Phone (850) 617-8005

Street

Tallahassee

FL

32399

Email [ann.coffin@floridarevenue.com](mailto:ann.coffin@floridarevenue.com)

City

State

*Zip*

Speaking:	For	Against	<input checked="" type="checkbox"/>	Information
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Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Child Support Program, FL Department of Revenue

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18

Meeting Date

1214

Bill Number (if applicable)

Topic Child Exploitation

Name Andrew Fay

Job Title Special Counsel

Address DL02  
Street

Dalhousie FL  
City State Zip

Phone 850-245-0155

Email Andrew.Fay@myfloridalegislature.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Attorney General's Office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

508  
Bill Number (if applicable)

Topic Public Assistance

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.  
Street

Tallahassee FL 32301  
City State Zip

Phone 850-321-9386

Email fckp@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/29/18  
Meeting Date

508  
Bill Number (if applicable)

Topic Public Assistance

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Policy Director 106 E. College

Address P.O. Box 10788 College Ave.

Phone 334-224-4309

Tallahassee FL 32307  
City State Zip

Email Scott.McCoy@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Southern Poverty Law Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)